

State of Iowa

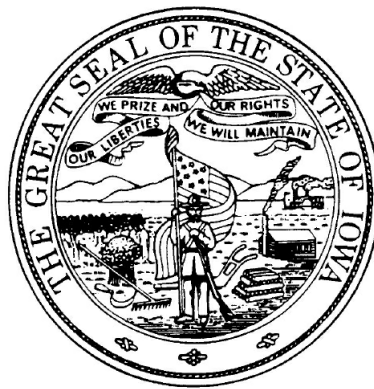
Iowa

Administrative

Code

Supplement

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Architectural Examining Board[193B]

Replace Chapter 3

Interior Design Examining Board[193G]

Replace Analysis

Replace Chapters 1 to 3

Replace Chapters 5 to 7

Replace Chapter 8 with Reserved Chapter 8

Economic Development Authority[261]

Replace Chapter 42

Transportation Department[761]

Replace Chapter 4

Replace Chapter 615

CHAPTER 3 CONTINUING EDUCATION

[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

193B—3.1(544A,272C) Continuing education. The following rules adopted by the architectural examining board are in compliance with Iowa Code chapter 544A and section 272C.2 requiring professional and occupational licensees to participate in a continuing education program as a condition of registration renewal.

[ARC 1625C, IAB 9/17/14, effective 10/22/14]

193B—3.2(544A,272C) Definitions. The following definitions apply as used in Iowa Code chapter 544A and this chapter of the architectural examining board rules, unless the context otherwise requires.

“Continuing education” or *“CE”* means postlicensure learning that enables a registered architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public’s health, safety, and welfare.

“Continuing education hour” or *“CEH”* means one continuous instructional hour (50 to 60 minutes of contact) spent in structured educational activities intended to increase or update the architect’s knowledge and competence in health, safety, and welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity and if the prescribed time is not deemed unreasonable by the board, then such prescribed time shall be accepted for CEH purposes as the architect’s time irrespective of actual time spent on the activity.

“Distance learning” means any education process based on the geographical separation of student and instructor. “Distance learning” includes computer-generated programs, webinars, and home-study/correspondence programs.

“Health, safety, and welfare subjects” means technical and professional subjects that the board deems appropriate to safeguard the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

1. Building systems: structural, mechanical, electrical, plumbing, communications, security, and fire protection.
2. Construction contract administration: contracts, bidding, and contract negotiations.
3. Construction documents: drawings, specifications, and delivery methods.
4. Design: urban planning, master planning, building design, site design, interiors, safety and security measures.
5. Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation.
6. Legal: laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, and insurance to protect owners and the public.
7. Materials and methods: construction systems, products, finishes, furnishings, and equipment.
8. Occupant comfort: air quality, lighting, acoustics, and ergonomics.
9. Predesign: land use analysis, programming, site selection, site and soils analysis, and surveying.
10. Preservation: historic, reuse, and adaptation.

“Not engaged in active practice” means that an architect is not engaged in the practice of architecture or earning monetary compensation by providing professional architectural services in any licensing jurisdiction of the United States or a foreign country.

“Retired from active practice” has the same meaning as “not engaged in active practice.”

“Structured educational activities” means educational activities in which at least 75 percent of an activity’s content and instructional time is to be devoted to health, safety, and welfare subjects related to the practice of architecture, including courses of study or other activities under the areas identified as health, safety, and welfare subjects and provided by qualified individuals or organizations, whether the courses of study or other activities are delivered by direct contact or distance learning methods.

[ARC 1625C, IAB 9/17/14, effective 10/22/14]

193B—3.3(544A,272C) Basic requirements.

3.3(1) To renew registration, an architect must, in addition to meeting all other requirements, complete a minimum of 24 CEHs for each 24-month period since the architect's last renewal of initial registration or be exempt from these continuing education requirements as provided in rule 193B—3.5(544A,272C). Failure to comply with these requirements may result in nonrenewal of the architect's registration.

3.3(2) All 24 CEHs must be completed in health, safety, and welfare subjects acquired in structured educational activities. CEHs may be acquired at any location. Excess CEHs cannot be credited to the next renewal.

3.3(3) An architect shall complete and submit forms as required by the board certifying that the architect has completed the required CEHs. Forms may be audited by the board for verification of compliance with these requirements. Documentation of reported CEHs shall be maintained by the architect for two years after the period for which the form was submitted. If the board disallows any CEHs, the architect shall have 60 days from notice of such disallowance to either provide further evidence of having completed the CEHs disallowed or remedy the disallowance by completing the required number of CEHs (provided that such CEHs shall not again be used for the next renewal). If the board finds, after proper notice and hearing, that the architect willfully disregarded these requirements or falsified documentation of required CEHs, the architect may be subject to disciplinary action.

3.3(4) An architect who holds registration in Iowa for less than 12 months from the date of initial registration or who is reinstating to active status shall not be required to report CEHs at the first registration renewal. An architect who holds registration in Iowa for more than 12 months, but less than 23 months from the date of initial registration or who is reinstating to active status, shall be required to report 12 CEHs earned in the preceding 12 months at the first registration renewal.

[ARC 1625C, IAB 9/17/14, effective 10/22/14; ARC 1985C, IAB 4/29/15, effective 4/10/15; ARC 3022C, IAB 4/12/17, effective 5/17/17]

193B—3.4(544A,272C) Authorized structured educational activities. The following list may be used by all registrants in determining the types of activities which may fulfill CE requirements if the activities are conducted as structured educational activities on health, safety, and welfare subjects:

1. Short courses or seminars sponsored by colleges or universities.
2. Technical presentations held in conjunction with conventions or at seminars sponsored or accredited by the American Institute of Architects (AIA), Construction Specifications Institute, Construction Products Manufacturers Council, National Council of Architecture Registration Boards (NCARB), or similar organizations devoted to architectural education.
3. Distance learning sponsored by the AIA, NCARB, or similar organizations.
4. College or university credit courses. Each semester hour shall equal 12 CEHs. A quarter hour shall equal 8 CEHs.

[ARC 1625C, IAB 9/17/14, effective 10/22/14]

193B—3.5(544A,272C) Exemptions.

3.5(1) As provided in Iowa Code section 272C.2(4), a registered architect shall be deemed to have complied with the continuing education requirements set forth in this chapter if the architect attests in the required affidavit that for not less than 21 months of the preceding two-year period of registration, the architect:

- a. Has served honorably on active duty in the military service; or
- b. Is a resident of another state or district having a continuing education requirement for registration as an architect and has complied with all requirements of that state or district for practice therein; or
- c. Is a government employee working as an architect and assigned to duty outside the United States.

3.5(2) Architects who so attest on their affidavits that they are retired from active practice or are not engaged in active practice may maintain their registrations in retired or inactive status without satisfying

CE requirements. Such architects may, however, reenter practice only after satisfying the board of their proficiency. Proficiency may be established by any one of the following:

- a.* Submitting verifiable evidence of compliance with the aggregate continuing education requirements for the reporting periods attested as retired from active practice or not engaged in active practice up to a maximum of 48 CEHs.
- b.* Retaking the architectural registration examination.
- c.* Fulfilling alternative reentry requirements determined by the board which serve to assure the board of the current competency of the architect to engage in the practice of architecture.

3.5(3) The board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. See Iowa Administrative Code 193—Chapter 5.

[ARC 1625C, IAB 9/17/14, effective 10/22/14; ARC 1985C, IAB 4/29/15, effective 4/10/15]

193B—3.6(544A,272C) Transition provisions. Rescinded ARC 1985C, IAB 4/29/15, effective 4/10/15.

These rules are intended to implement Iowa Code section 272C.2.

[Filed 9/27/78, Notice 8/23/78—published 10/18/78, effective 11/22/78]

[Filed 3/2/82, Notice 1/6/82—published 3/31/82, effective 5/5/82]

[Filed 6/24/88, Notice 3/9/88—published 7/13/88, effective 8/17/88]

[Filed 3/30/89, Notice 12/28/88—published 4/19/89, effective 5/24/89]

[Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 4/10/91]

[Filed 12/6/91, Notice 10/30/91—published 12/25/91, effective 1/29/92]

[Filed 3/12/93, Notice 2/3/93—published 3/31/93, effective 5/5/93]

[Filed 1/14/94, Notice 11/10/93—published 2/2/94, effective 3/23/94]

[Filed 2/6/95, Notice 12/7/94—published 3/1/95, effective 4/5/95]

[Filed 9/20/96, Notice 7/31/96—published 10/9/96, effective 11/13/96]

[Filed 3/21/97, Notice 2/12/97—published 4/9/97, effective 5/14/97]

[Filed 9/12/01, Notice 6/27/01—published 10/3/01, effective 11/7/01]

[Filed ARC 1625C (Notice ARC 1500C, IAB 6/11/14), IAB 9/17/14, effective 10/22/14]

[Filed Emergency ARC 1985C, IAB 4/29/15, effective 4/10/15]

[Filed ARC 3022C (Notice ARC 2876C, IAB 1/4/17), IAB 4/12/17, effective 5/17/17]

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CHAPTER 1 DESCRIPTION OF ORGANIZATION

193G—1.1(544C,17A) Definitions. As used in these rules, the following definitions of words and terms shall apply:

“*Board*” means the interior design examining board.

“*Bureau*” means the professional licensing and regulation bureau of the division of banking of the department of commerce.

“*Interior design*” means the design of interior spaces including the preparation of documents relating to space planning, finish materials, furnishings, fixtures, and equipment, and the preparation of documents relating to the interior construction that does not affect the mechanical or structural systems of a building. “Interior design” does not include services that constitute the practice of architecture or professional engineering.

“*NCIDQ*” means the National Council for Interior Design Qualification.

“*Registered interior designer*” means a person who obtains a registration and engages in the practice of interior design under the authority of Iowa Code chapter 544C.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—1.2(544C) Description.

1.2(1) The purpose of the board is to administer and enforce the provisions of Iowa Code chapter 544C, including issuing registration certificates and registration renewals; investigating violations and infractions of the interior design law; disciplining registrants; and seeking injunctive relief against unregistered persons who violate Iowa Code chapter 544C. To this end, the board has promulgated these rules to clarify the board’s intent and procedures.

1.2(2) The primary mission of the board is to protect the public interest. All board rules shall be construed as fostering the guiding policies and principles described in Iowa Code chapter 544C. The board and its registrants shall strive at all times to protect the public interest by promoting the highest standards of interior design.

1.2(3) All official communications, including submissions and requests, should be addressed to the board at 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—1.3(544C,17A) Organization and duties. The board shall consist of seven members: five members who are interior designers registered under Iowa Code chapter 544C and two members who are not interior designers and who represent the general public. The board shall elect annually from its members a chairperson and a vice-chairperson. A quorum of the board shall be four members, and all final motions and actions must receive a quorum vote. The board shall enforce the provisions of Iowa Code chapter 544C and shall maintain a roster of all registered interior designers in the state.

1.3(1) Chairperson. The chairperson shall, when present, preside at the meetings, appoint committees, and exercise all duties and powers of the chairperson.

1.3(2) Vice-chairperson. The vice-chairperson shall, in the absence or incapacity of the chairperson, exercise the duties and powers of the chairperson.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—1.4(544C,17A) Meetings. Calls for meetings shall be issued in accordance with Iowa Code section 21.4. The annual meeting of the board shall be the first meeting scheduled after April 30. At this meeting, the chairperson and vice-chairperson shall be elected. The chairperson and vice-chairperson shall serve one-year terms. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they are elected.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—1.5(544C) Other meetings. In addition to the annual meeting and any subsequent meetings, the time and place of which may be fixed by vote of the board, a meeting may be called by the chairperson of the board or by joint call of a majority of its members.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—1.6(544C,17A) Order of business. The chairperson or board administrator shall prepare an agenda listing all matters to be discussed at a meeting. A copy of the agenda shall be available to each member of the board.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—1.7(544C) Administrative committees.

1.7(1) The board chairperson may appoint administrative committees of not less than two nor more than three members who shall be members of the board for the purpose of making recommendations on matters specified by the board.

1.7(2) An administrative committee may be appointed to make recommendations to the board concerning the board's responsibilities in regard to examinations, registrations, continuing education, professional conduct, discipline and other board matters.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—1.8(544C,17A) Waivers and variances.

1.8(1) Persons who wish to seek waivers or variances from board rules should consult the uniform rules for the bureau at 193—Chapter 5.

1.8(2) In addition to the provisions of 193—Chapter 5, the following shall apply for interim rulings:

a. The board chairperson, or the vice-chairperson if the chairperson is not available, may rule on a petition for waiver or variance when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

b. The board administrator, upon receipt of a petition that meets all applicable criteria established in 193—Chapter 5, shall present the request to the board chairperson or vice-chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

c. The chairperson or vice-chairperson shall reserve the right to hold an electronic meeting of the board, pursuant to Iowa Code section 21.8, when prior board precedent does not clearly resolve the request, input of the board is deemed required, and the practical result of waiting until the next regularly scheduled meeting would be a denial of the request due to timing issues.

d. A waiver report shall be placed on the agenda of the next regularly scheduled board meeting and recorded in the minutes of the meeting.

e. Subrule 1.8(2) on interim rulings does not apply if the waiver or variance was filed in a contested case.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

These rules are intended to implement Iowa Code chapters 17A, 21, 22, 252J, 261, 272C and 544C.

[Filed 9/21/06, Notice 8/16/06—published 10/11/06, effective 11/15/06]

[Filed ARC 3024C (Notice ARC 2797C, IAB 11/9/16), IAB 4/12/17, effective 5/17/17]

CHAPTER 2 REGISTRATION

193G—2.1(544C) Certificate of registration. All applicants for registration must complete a board-approved application and satisfy the interior design education, practical training, examination, and fee requirements established by this rule.

2.1(1) Education and practical training. An applicant for registration shall meet or exceed one of the following interior design education/practical training requirements:

a. A baccalaureate degree from a four-year interior design program or a substantially equivalent program, and at least two years of acceptable full-time work experience in the performance of interior design services.

b. A certificate, degree or diploma from a three-year interior design program or a substantially equivalent program, and at least three years of acceptable full-time work experience in the performance of interior design services.

c. A certificate, degree or diploma from a two-year interior design program or a substantially equivalent program, and at least four years of acceptable full-time work experience in the performance of interior design services.

2.1(2) Examination. An applicant for registration shall verify successful completion of the NCIDQ examination, or its equivalent.

2.1(3) Reciprocity. The board may also grant registration by reciprocity. An applicant applying to the board for registration by reciprocity shall furnish satisfactory evidence that the applicant meets both of the following requirements:

a. Holds a valid registration or license issued by another registration authority recognized by the board where the qualifications for registration or licensure were substantially equivalent to those prescribed in this state on the date of original registration or licensure with the other registration authority. The applicant must obtain a letter of good standing or complete a form stating that the applicant is in good standing from all jurisdictional licensing boards with which the applicant holds an active registration. The letter or form must bear the seal of the jurisdictional licensing board.

b. Holds a current certificate number issued by the NCIDQ.

[ARC 9480B, IAB 5/4/11, effective 6/8/11; ARC 1431C, IAB 4/30/14, effective 6/4/14; ARC 3025C, IAB 4/12/17, effective 5/17/17]

193G—2.2(17A,272C,544C) Renewal of certificates of registration. Certificates of registration expire biennially on June 30. Certificates issued to registrants with last names beginning with A through K shall expire on June 30 of even-numbered years and certificates issued to registrants with last names beginning with L through Z shall expire on June 30 of odd-numbered years. In order to maintain authorization to practice in Iowa, a registrant is required to renew the certificate of registration prior to the expiration date. However, the board will accept an otherwise sufficient renewal application which is untimely if the board receives the application and late fee of \$25 within 30 days of the date of expiration. A registrant who fails to renew by the expiration date is not authorized to use the title of registered interior designer in Iowa until the certificate is reinstated as provided in rule 193G—2.3(544C,17A).

2.2(1) It is the policy of the board to mail to each registrant at the registrant's last-known address a notice of the pending expiration date approximately one month prior to the date the certificate of registration is scheduled to expire. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee.

2.2(2) If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the registrant failed to satisfy the continuing education provisions required as a condition for registration. If the basis for denial is a pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

2.2(3) When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the registrant. Any additional hours of continuing education completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not fulfilled. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the registrant pursuant to 193—subrule 7.40(1).

2.2(4) A registrant who continues to use the title of registered interior designer in Iowa after the registration has expired may be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

2.2(5) Registrants shall notify the board within 30 days of any change of address or business.
[ARC 3025C, IAB 4/12/17, effective 5/17/17]

193G—2.3(544C,17A) Reinstatement of certificates of registration. An individual may reinstate a lapsed certificate of registration to active registration by doing the following:

1. Paying the current renewal fee;
2. Paying the reinstatement fee of \$100;
3. Providing a written statement outlining the professional activities that the applicant performed in Iowa during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant; and
4. Submitting documented evidence of completion of 5 contact hours of continuing education for each year or partial year since the registrant's last renewal year in active status with a maximum of 20 contact hours. The continuing education hours used for reinstatement may not be used again at the next renewal and shall not have been earned more than four years prior to the date of the application to reinstate.

[ARC 3025C, IAB 4/12/17, effective 5/17/17]

193G—2.4(544C) Applications. Persons applying for initial, renewal, or reciprocal registration shall submit an application on a form provided by the board and shall pay a registration fee of \$275. Certificates issued to registrants with last names beginning with A through K shall expire on June 30 of even-numbered years, and certificates issued to registrants with last names beginning with L through Z shall expire on June 30 of odd-numbered years. An applicant applying for initial, reciprocal, or reinstatement registration within 12 months from the applicant's required renewal date shall pay half of the required fee. An applicant applying for initial, reciprocal, or reinstatement registration more than 12 months from the applicant's required renewal date shall pay the full registration fee.

Type of fee	Amount
Initial registration fee	\$275
Reciprocal registration fee	\$275
Renewal	\$275
Late renewal fee	\$25
Reinstatement of lapsed registration	\$100

[ARC 3025C, IAB 4/12/17, effective 5/17/17]

These rules are intended to implement Iowa Code chapter 544C.

[Filed 9/21/06, Notice 8/16/06—published 10/11/06, effective 11/15/06]

[Filed ARC 9480B (Notice ARC 9347B, IAB 2/9/11), IAB 5/4/11, effective 6/8/11]

[Filed ARC 1431C (Notice ARC 1298C, IAB 2/5/14), IAB 4/30/14, effective 6/4/14]
[Filed ARC 3025C (Notice ARC 2796C, IAB 11/9/16), IAB 4/12/17, effective 5/17/17]

CHAPTER 3 CONTINUING EDUCATION

193G—3.1(17A,272C,544C) Definitions. As used in these rules, the following definitions shall apply:

“Contact hour” means one 60-minute clock hour of educational activity of which at least 50 minutes is devoted to instructional content. Where other units of credit are stated for an educational experience (e.g., “CEUs”), they shall be credited in terms of actual contact hours.

“Distance education” means any education process based on the geographical separation of student and instructor.

“Health, safety and welfare subjects” or *“HSW subjects”* means subjects that relate to the planning and designing of spaces and elements to minimize the risk of injury to persons or property. Such subjects include compliance with applicable building and safety codes, the planning and designing of spaces and elements that optimize over time the physically and mentally healthful use of those spaces and elements, and the planning and designing of spaces and elements that are durable, maintainable, cost-effective, environmentally conscientious and conservative of resources; that function properly in all relevant respects; that encourage access, functional independence and use by all relevant populations; that encourage user satisfaction, including aesthetic appeal; that promote a sense of user confidence and peace of mind; that integrate effectively with the surrounding environment; and that, in other similar ways, enhance the health, safety and well-being of the public.

“Self-directed activity” means a method of interior design-related learning occurring outside of a formal course setting.

“Structured activity” means a method of interior design-related learning led by a qualified individual and conducted or sponsored by a professional organization, technical organization, industry source or accredited college or university taught in person or through distance education.

[ARC 3025C, IAB 4/12/17, effective 5/17/17]

193G—3.2(17A,272C,544C) Continuing education requirements.

3.2(1) Hours required. Each registrant shall complete a minimum of 10 contact hours in acceptable health, safety and welfare subjects for continuing education. All hours shall be in structured activity programs and must be acquired during the renewal period. Carryover hours from a previous renewal are not allowed.

3.2(2) Continuing education hours need not be acquired in this state, provided that the registrant can demonstrate that the program meets the definition of structured activity as defined in this chapter.

3.2(3) A registered interior designer who holds a registration in Iowa for less than 12 months from the date of initial registration shall not be required to report continuing education at the first registration renewal. A registered interior designer who holds a registration in Iowa for more than 12 months, but less than 24 months from the date of initial registration, shall be required to report 6 contact hours (with a minimum of 4 contact hours in HSW subjects in a structured activity) earned in the preceding 12 months at the first registration renewal.

3.2(4) Sources of continuing education. Credit may not be claimed for any activity required as part of a registered interior designer’s routine professional responsibilities. Structured activities include:

a. Completion of any program or course sponsored by a professional or technical organization or industry source.

b. Instruction of a course, seminar, lecture, presentation, workshop or similar formal educational program. Credit shall be allowed at a maximum of 3 preparation hours for each class hour spent for actual presentation, valid for the initial presentation only. College and university faculty may not claim contact or preparation credit for teaching regular curriculum courses.

c. Research that is formally presented to the profession or public. Credit shall be allowed at a maximum of 4 contact hours per reporting period and shall be valid for the initial presentation only.

d. Completion of college or university credit courses dealing with interior design-related subjects. Each semester hour shall equal 15 contact hours. A quarter hour shall equal 10 contact hours.

3.2(5) Approved continuing education. The board does not preapprove continuing education activities or courses; however, acceptable HSW subjects that enhance the health, safety, and well-being of the public include the following topics:

- a.* Life safety, ADA, and other building and safety codes, standards and administrative regulations governing the practice of interior design.
- b.* Safety and security.
- c.* Physical and mental health issues.
- d.* Topics that relate to human physiology, perception, anthropometrics, ergonomics, psychology, sociology, ecology and cultural factors.
- e.* Energy efficiency.
- f.* Environmental issues.
- g.* Accessibility and universal design.
- h.* Materials and methods.
- i.* Building systems.
- j.* Statutes and rules relating to interior design regulation.
- k.* Professional ethics.
- l.* Legal aspects of professional practice.
- m.* Construction documents and services.
- n.* Project administration.

[ARC 3025C, IAB 4/12/17, effective 5/17/17]

193G—3.3(17A,272C,544C) Controls and reporting.

3.3(1) An applicant for registration renewal may be requested to provide, in such manner and at such time as prescribed by the board, a signed statement, under penalty of perjury, on forms provided by the board, setting forth the continuing education in which the registrant has participated.

a. When an applicant is requested to provide a listing of the continuing education completed for structured activities, the information shall include:

- (1) School, firm or organization conducting the course.
 - (2) Location of course.
 - (3) Title of course or description of content.
 - (4) Principal instructor.
 - (5) Dates attended.
 - (6) Hours claimed.
- b.* Reserved.

3.3(2) The board will verify, on a random basis, information submitted by registrants. If an application for renewal is not approved, the applicant will be so notified and may be granted a period of time by the board in which to correct the deficiencies noted.

3.3(3) Primary responsibility for documenting the requirements rests with the registrant, and evidence to support fulfillment of those requirements must be retained for a period of five years subsequent to submission of the report claiming the credit. Satisfaction of the requirements, including retention of attendance records and written outlines, may be accomplished as follows:

a. For courses taken for scholastic credit at accredited universities and colleges, evidence of satisfactory completion of the course is sufficient; for noncredit courses taken, a statement of the hours of attendance, signed by the instructor, must be obtained by the registrant.

b. For correspondence courses and formal independent study courses, written evidence or a certificate of completion from the sponsor or course provider shall be obtained by the registrant.

c. In all other instances, the registrant must maintain a record of the information listed in paragraph 3.3(1) “a” and a copy of the course outline prepared by the course sponsor.

3.3(4) The registrant is responsible for maintaining verification of claimed credit for a minimum of five years subsequent to submission of the report to the board office. Acceptable verification may be presented with a course completion certificate or a college transcript.

[ARC 3025C, IAB 4/12/17, effective 5/17/17]

193G—3.4(17A,544C) Hearings. If the board disallows any continuing education hours, the registrant shall have 60 days from notice of such disallowance to either provide further evidence of having completed the continuing education hours disallowed or remedy the disallowance by completing the required number of continuing education hours (provided that such continuing education hours shall not again be used for the next renewal). In the event of denial, in whole or in part, of any application for approval of credit for continuing education activity, the registrant shall have the right, within 20 days after the date of notification of the denial by mail, to request a hearing by the board. The hearing shall be held within 60 days after receipt of the request for the hearing. The decision of the board shall be final. If the board finds, after proper notice and hearing, that the registrant willfully disregarded the continuing education requirements set forth in this chapter or falsified documentation of the required continuing education hours, the registrant may be subject to disciplinary action.

[ARC 3025C, IAB 4/12/17, effective 5/17/17]

193G—3.5(17A,544C) Exemptions.

3.5(1) As provided in Iowa Code section 272C.2(4), a registered interior designer shall be deemed to have complied with the continuing education requirements set forth in this chapter if during the continuing education compliance period the registrant:

- a.* Has served honorably on active duty in the military service; or
- b.* Is a resident of another state or district having a continuing education requirement for registered interior design and has complied with all requirements of that state or district for practice therein; or
- c.* Is a government employee working as a registered interior designer outside the United States.

3.5(2) The board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. See 193—Chapter 5.

[ARC 3025C, IAB 4/12/17, effective 5/17/17]

193G—3.6(17A,544C) Grounds for denial of registration renewal. Failure of a registrant to complete the continuing education requirements as set forth in this chapter, or failure to file a report of completed continuing education, or failure to submit a written request for waiver or exemption shall be grounds for the board to deny renewal of the registration.

[ARC 3025C, IAB 4/12/17, effective 5/17/17]

These rules are intended to implement Iowa Code chapter 544C.

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CHAPTER 5
DISCIPLINARY AUTHORITY AND GROUNDS FOR DISCIPLINE

193G—5.1(17A,272C,544C) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 272C, and 544C and related administrative rules for the protection and well-being of those persons who may rely upon registered individuals for the performance of interior design services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of registrants, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—5.2(17A,272C,544C) Grounds for discipline. The board may initiate disciplinary action against a registered interior designer on any of the following grounds:

1. A violation of any of the rules of professional conduct set forth in 193G—Chapter 4.
2. A violation of Iowa Code section 272C.9(2) or 272C.9(3).
3. Failure to comply with an order of the board imposing discipline.
4. Continuing to practice as a registered interior designer without satisfying the continuing education requirement, absent express waiver granted by the board.
5. Failure to fully cooperate with a registrant disciplinary investigation or investigation against a nonregistrant, including failure to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the registrant's last address on file at the board office.
6. A violation of Iowa Code section 544C.9 or 272C.10.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

These rules are intended to implement Iowa Code chapters 17A, 272C, and 544C.

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CHAPTER 6 DISCIPLINARY INVESTIGATIONS

193G—6.1(17A,272C,544C) Investigative authority. The board is authorized by Iowa Code sections 17A.13(1), 272C.3, 272C.4 and 272C.6(4) to conduct disciplinary investigations to determine whether grounds exist to initiate a disciplinary proceeding against a registrant.

193G—6.2(17A,272C,544C) Initiation of disciplinary investigations. The board may initiate a registrant disciplinary investigation upon the board's receipt of information suggesting that a registrant may have violated a law or rule enforced by the board which violation, if true, would constitute grounds for registrant discipline. The board may also review the publicly available work product of a registrant on a general or random basis to determine whether reasonable grounds exist to initiate disciplinary proceedings or to conduct a more specific investigation.

193G—6.3(272C,544C) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. General or random review of publicly available work product.
2. News articles or other media sources.
3. Reports filed with the board by the commissioner of insurance pursuant to Iowa Code section 272C.4(10).
4. Complaints filed with the board by any member of the public.
5. Registration applications or other documents submitted to the board.
6. Reports to the board from any regulatory or law enforcement agency from any jurisdiction.
7. Board audits of registrant compliance with conditions for registration, such as continuing education.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—6.4(17A,272C,544C) Conflict of interest. If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member shall abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193G—6.5(272C,544C) Complaints. Written complaints may be submitted to the board office by mail, E-mail, facsimile, or personal delivery by members of the public, including clients, business organizations, nonprofit organizations, governmental bodies, registrants, or other individuals or entities with knowledge of possible law or rule violations by registrants.

6.5(1) Contents of a written complaint. Written complaints may be submitted on forms provided by the board which are available from the board office and on the board's Web site. Written complaints, whether submitted on a board complaint form or in other written medium, may contain the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (registrant against whom the complaint is filed).
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions which the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.
- d. If known, citations to the laws or rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.

6.5(2) Immunity. As provided by Iowa Code section 272C.8, a person shall not be civilly liable as a result of filing a report or complaint with the board unless such act is done with malice, nor shall an

employee be dismissed from employment or discriminated against by an employer for filing such a report or complaint.

6.5(3) *Role of complainant.* The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the board based in whole or in part on information provided by the complainant.

6.5(4) *Role of the board.* The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate registrant discipline to be imposed, if any.

6.5(5) *Initial complaint screening.* All written complaints received by the board shall be initially screened by the board's executive officer to determine whether the allegations of the complaint fall within the board's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a registrant. Complaints which are clearly outside the board's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous shall be referred by the board's executive officer to the board for closure at the next scheduled board meeting. All other complaints shall be referred by the board's executive officer to the board's disciplinary committee for committee review as described in rule 193G—6.8(17A,272C,544C).

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—6.6(272C,544C) Case numbers. Whether based on a written complaint received by the board or a complaint initiated by the board, all complaint files shall be tracked by a case numbering system. Complaints are assigned case numbers in chronological order with the first two digits representing the year in which the complaint was received or initiated, and the second two digits representing the order in which the case file was opened (e.g., 01-01, 01-02, 01-03, etc.). The board's executive officer shall maintain a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate record keeping and a prompt response.

193G—6.7(272C,544C) Confidentiality of complaint and investigative information. All complaint and investigative information received or created by the board is privileged and confidential pursuant to Iowa Code section 272C.6(4). Such information shall not be released to any person except as provided in that section.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—6.8(17A,272C,544C) Investigation procedures.

6.8(1) *Disciplinary committee.* The board chairperson may annually appoint, as needed, two to three members of the board to serve on the board's disciplinary committee to review and process disciplinary complaints. The disciplinary committee is a purely advisory body which shall review complaint files referred by the board administrator, generally supervise the investigation of complaints, and make recommendations to the full board on the disposition of complaints. Members of the committee shall not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

6.8(2) *Committee screening of complaints.* Upon the referral of a complaint from the board's executive officer or from the full board, the committee shall determine whether the complaint presents facts which, if true, suggest that a registrant may have violated a law or rule enforced by the board. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee shall refer the complaint to the full board with the recommendation that the complaint be

closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

6.8(3) *Committee procedures.* If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the registrant an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193G—6.9(17A,272C,544C), or request board staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or board staff shall present a report to the committee. The committee shall review the report and determine what further action is necessary. The committee may:

- a. Request further investigation.
- b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation of closure.
- c. Determine there is probable cause to believe that a law or rule enforced by the board has been violated, but that disciplinary action is unwarranted on other grounds, and refer the case to the full board with the recommendation of closure. The committee may also recommend that the registrant be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.
- d. Determine there is probable cause to believe a disciplinary violation has occurred, and refer the case to the full board with the recommendation that the board initiate a disciplinary proceeding (contested case).

6.8(4) *Subpoena authority.* Pursuant to Iowa Code subsections 17A.13(1) and 272C.6(3), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding. Board procedures concerning investigatory subpoenas are set forth in 193—Chapter 6.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—6.9(17A,272C,544C) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected registrant, the committee may grant the registrant an opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

6.9(1) An informal discussion is intended to provide a registrant an opportunity to share the registrant's account of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A registrant is not required to attend an informal discussion. Because disciplinary investigations are confidential, the registrant may not bring other persons to an informal discussion, but registrants may be represented by legal counsel.

6.9(2) Unless disqualification is waived by the registrant, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a registrant who desires to attend an informal discussion must therefore waive the right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A registrant would not waive the right to seek disqualification on any other ground. By electing to attend an informal discussion, a registrant accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

6.9(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

6.9(4) The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion. If the registrant agrees to a consent order, a statement of charges shall be filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193G—6.10(17A,272C,544C) Closing complaint files.

6.10(1) *Grounds for closing.* Upon the recommendation of the board's executive officer pursuant to subrule 6.5(5), the recommendation of the disciplinary committee pursuant to rule 193G—6.8(17A,272C,544C), or on its own motion, the board may close a complaint file, with or without prior investigation. The board's decision is final and not eligible for judicial review. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the board may close a complaint file. The following nonexclusive list is, however, illustrative of the grounds upon which the board may close a complaint file:

- a. The complaint alleges matters outside the board's jurisdiction.
- b. The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the board.
- c. The complaint is frivolous or trivial.
- d. The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rule making.
- e. The matters raised in the complaint are situational, isolated, or unrepresentative of a registrant's typical practice, and the registrant has taken appropriate steps to ensure future compliance and prevent public injury.
- f. Resources are unavailable or better directed to other complaints or board initiatives in light of the board's overall budget and mission.
- g. Other extenuating factors weigh against the imposition of public discipline when considered in the context of the board's purpose and mission.

6.10(2) *Cautionary letters.* The board may issue a confidential letter of caution to a registrant when a complaint file is closed which informally cautions or educates the registrant about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the registrant. Cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a registrant continues a practice about which the registrant has been cautioned.

6.10(3) *Reopening closed complaint files.* The board may reopen a closed complaint file if additional information arises after closure which provides a basis to reassess the merits of the initial complaint.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

These rules are intended to implement Iowa Code chapters 17A, 272C and 544C.

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CHAPTER 7 DISCIPLINARY PROCEEDINGS

193G—7.1(17A,272C,544C) Initiation of disciplinary proceedings. Disciplinary proceedings may be initiated only by the affirmative vote of a quorum of the board at a public meeting. Board members who are disqualified shall not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board shall constitute a quorum of the remaining six board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the board's executive officer may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11(5).

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—7.2(17A,272C,544C) Disciplinary contested case procedures. Unless in conflict with a provision of board rules in this chapter, all of the procedures set forth in 193—Chapter 7 shall apply to disciplinary contested cases initiated by the board.

193G—7.3(272C,544C) Disciplinary sanctions.

7.3(1) *Type of sanctions.* The board has authority to impose the following disciplinary sanctions:

- a. Revoke a registration issued by the board.
- b. Suspend a registration issued by the board.
- c. Revoke or suspend the privilege to engage in one or more areas of interior design.
- d. Impose a period of probation, either with or without conditions.
- e. Impose requirements regarding continuing education. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for registration renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a registration. The board may also specify that current reference materials be obtained and maintained.
- f. Require reexamination, using one or more parts of the NCIDQ examination given to candidates for the registered interior design registration.
- g. Impose civil penalties, the amount of which shall be at the discretion of the board, but which shall not exceed \$1,000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in rule 193G—5.2(17A,272C,544C).
- h. Issue a reprimand.

7.3(2) *Imposing discipline.* Discipline may be imposed against a registrant only by the affirmative vote of a majority of the members of the board who are not disqualified.

7.3(3) *Voluntary surrender.* The board may accept the voluntary surrender of a registration to resolve a pending disciplinary contested case or pending disciplinary investigation. The board shall not accept a voluntary surrender of a registration to resolve a pending disciplinary investigation unless a statement of charges will be filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

7.3(4) *Notification requirements.* Whenever a registration is revoked, suspended, restricted, or voluntarily surrendered under this chapter, the registrant shall:

- a. Within 15 days of receipt of the board's final order, notify in writing all clients of the fact that the registration has been revoked, suspended or voluntarily surrendered or that the practice of the registrant has been restricted. Such notice shall advise the client to obtain alternative professional services, unless the restriction at issue would not impact the registered interior design services provided for that client;
- b. Within 30 days of receipt of the board's final order, the registrant shall file with the board copies of the notices sent pursuant to paragraph 7.3(4) "a." Compliance with this requirement shall be a condition for an application for reinstatement.

7.3(5) *Civil penalties.* Factors the board may consider when determining whether to assess and the amount of civil penalties include:

- a.* Whether other forms of discipline are being imposed for the same violation.
- b.* Whether the amount imposed will be a substantial deterrent to the violation.
- c.* The circumstances leading to the violation.
- d.* The severity of the violation and the risk of harm to the public.
- e.* The economic benefits gained by the registrant as a result of the violation.
- f.* The interest of the public.
- g.* Evidence of reform or remedial action.
- h.* Time lapsed since the violation occurred.
- i.* Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
- j.* The clarity of the issues involved.
- k.* Whether the violation was willful and intentional.
- l.* Whether the registrant acted in bad faith.
- m.* The extent to which the registrant cooperated with the board.

193G—7.4(272C,544C) Publication of decisions.

7.4(1) The board shall publish in the board's newsletter, or in another professional publication designated by the board, the name of each registrant disciplined by the board, along with a brief description of the underlying circumstances, regardless of the nature of the violation.

7.4(2) The board shall issue a formal press release in those instances in which a registration has been suspended or revoked.

7.4(3) The board shall notify other state interior design boards that have issued a similar license to an Iowa registrant of disciplinary action taken against the Iowa registrant. The board shall also notify the NCIDQ of disciplinary action taken against an Iowa registrant.

[ARC 3024C, IAB 4/12/17, effective 5/17/17]

193G—7.5(272C,544C) Reinstatement.

7.5(1) The term "reinstatement" as used in this rule and in rule 193—7.38(17A,272C) shall include the reinstatement of a suspended registration, the modification or removal of a practice restriction, the issuance of a registration following the denial of an application to renew a registration, and the issuance of a new registration following the revocation or voluntary surrender of a registration.

7.5(2) Any person whose registration has been revoked, suspended or restricted by the board, or who has voluntarily surrendered a registration to conclude a disciplinary investigation or proceeding, or whose application to renew a registration has been denied may apply to the board to modify or terminate the suspension, issue or reissue the registration, or modify or remove the restriction in accordance with the provisions of this rule, and the terms of the order of revocation, suspension or restriction, denial of registration renewal, or acceptance of voluntary surrender of a registration.

7.5(3) If the applicable order did not establish terms upon which the registrant may apply for reinstatement, an initial application for reinstatement may not be made until one year has elapsed from the date of the order which revoked, suspended or restricted the registration, denied registration renewal, or accepted a voluntary surrender.

7.5(4) All proceedings for reinstatement shall be initiated by the respondent and shall be subject to the procedures set forth in rule 193—7.38(17A,272C). In addition, the board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the ground of personal investigation the board members or staff before whom the applicant appears.

7.5(5) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193G—7.3(272C,544C).

7.5(6) The board shall not grant an application for reinstatement when the initial order which revoked, suspended or restricted the registration, denied registration renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

- a.* All terms of the sentencing or other criminal order have been fully satisfied;
- b.* The applicant has been released from confinement and any applicable probation or parole; and
- c.* Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code chapters 17A, 272C, and 544C.

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CHAPTER 8
RENEWAL AND REINSTATEMENT
Rescinded **ARC 3025C**, IAB 4/12/17, effective 5/17/17

CHAPTER 42
IOWA TOURISM GRANT PROGRAM

261—42.1(15) Definitions. For purposes of this chapter unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Collaborative application*” means an application in which multiple partners are providing monetary support for the project.

“*Head applicant*” means the applicant on a collaborative application that is both the recipient of the funds and the administrator of the project.

“*Marketing*” means planning for or implementing efforts to publicize a community, event or destination using a range of strategies, tools and tactics.

“*Meetings and events*” means the acquisition of regional or national tourism-related meetings and conventions or execution of local festivals or similar tourism events that positively impact local and state economies.

“*Project*” means a tourism-related marketing initiative, meeting or event that benefits both state and local economies.

“*Tourism*” means a site or event that attracts people from beyond a 50-mile radius or people who spend the night away from home to visit a site or event.

[ARC 1493C, IAB 6/11/14, effective 5/19/14; ARC 3023C, IAB 4/12/17, effective 5/17/17]

261—42.2(15) Program description.

42.2(1) The authority will accept competitive applications for tourism-related projects in each fiscal year in which funding is available. The authority will award grants to projects based on the criteria described in subrule 42.4(1), and the authority will award grants to projects in a manner designed to prioritize those projects that provide the greatest benefit to state and local economies.

42.2(2) The maximum grant award is \$5,000 per application. The minimum grant award is \$500 per application.

42.2(3) The authority will make awards based on the total amount of funding available each fiscal year. Funds will be awarded as reimbursement for expenditures that are directly related to the implementation of an eligible project.

42.2(4) An applicant may submit one application each fiscal year. If the application submitted by the applicant is a collaborative application, it will be counted as the head applicant’s application for the fiscal year.

42.2(5) An applicant that has received an Iowa tourism grant award in the prior fiscal year cannot submit an application for a substantially similar project in the following fiscal year. If an applicant does submit an application for a substantially similar project in the following fiscal year, the application will be deemed ineligible.

[ARC 1493C, IAB 6/11/14, effective 5/19/14; ARC 3023C, IAB 4/12/17, effective 5/17/17]

261—42.3(15) Program eligibility and application requirements.

42.3(1) Eligibility. To be eligible under the program, an applicant shall meet all of the following requirements:

a. The applicant must be a tourism-related entity based in the state of Iowa, including a nonprofit or for-profit organization, city, county, or regional government or planning entity.

b. The applicant shall demonstrate an amount of local match equal to at least 25 percent of the amount of grant funds to be received by the applicant under the program. The local match shall be in the form of cash. The local match must be spent on eligible expenses as described in rule 261—42.6(15).

c. The applicant shall submit a completed application, including all of the information described in subrule 42.3(2).

d. The applicant shall submit the application on or before the application deadline established in subrule 42.3(3).

42.3(2) Application requirements. When submitting an application for grant funds under the program, an applicant shall include all of the following information:

a. The applicant's name, mailing address, e-mail address, telephone number, contact person, and federal employer identification number. If the application is a collaborative application, the head applicant shall identify itself and provide the names of all partner applicants.

b. A detailed description of the project, including an explanation of how the project either markets tourism in Iowa or is a tourism-related meeting or event, and an explanation of how state funds will support the project.

c. Written documentation that the grant request is consistent with the cost of implementing the project. Examples of written documentation include but are not limited to advertising rate sheets, bids, quotes, and invoices.

d. Written documentation establishing the amount and source of the required local cash match.

e. Detailed information sufficient to enable the authority to accurately assess the impact and quality of the project described in the application. Such information shall include how the project is part of an overall plan to increase tourism locally and in the state of Iowa.

f. A description of the applicant's plan to recognize the authority's Iowa tourism office for its investment in the project.

g. If the applicant is an event, attraction, restaurant or lodging facility, then the applicant must provide verification that the information about the applicant has been updated at or added to the authority's Web site, www.traveliowa.com, within the 18 months preceding the application deadline. The authority may waive this requirement at its sole discretion.

42.3(3) Deadlines. The authority will only consider applications received on or before the applicable deadline. The deadline shall be 4:30 p.m. the first Monday in August of each fiscal year unless the authority, at its sole discretion, provides a different deadline for the submission of applications. The authority may provide a different deadline for the program as a whole, but the authority will not change the deadline at the request of any individual applicant. The authority will develop an application process and post all relevant application information, including deadline changes, on its Internet site at www.traveliowa.com.

[ARC 1493C, IAB 6/11/14, effective 5/19/14; ARC 3023C, IAB 4/12/17, effective 5/17/17]

261—42.4(15) Application scoring and approval process.

42.4(1) Scoring criteria. The authority will not review or score an application unless the application meets the requirements and deadlines of rule 261—42.3(15). An application meeting the requirements and deadlines of rule 261—42.3(15) will be given a numerical score between zero and 100. The higher an application's numerical score, the more likely it will receive funding under the program. The criteria used to score the applications and the maximum number of points that may be attributed to each criterion are as follows:

a. Project description: 20 points. The applicant will explain the project, the time line for its creation and implementation and how state funds will support the project. The authority will view favorably information that clearly articulates the project, sets forth a reasonable time line for the project's creation and implementation, and fully describes how state funds will be used to support the project.

b. Economic impact and ability to promote tourism industry growth: 20 points. The authority will consider how the project supports the mission of the Iowa tourism office and is part of the applicant's broader marketing strategy to increase the economic impact of tourism locally and in the state of Iowa.

c. Sustainability: 10 points. The authority will view favorably applications that illustrate capacity to implement and sustain the project upon completion.

d. Need: 15 points. The authority will consider the financial need of an applicant and will allot more points to applications that demonstrate how the applicant has exhausted other areas of funding to support the project.

e. Innovation: 20 points. The authority will consider the innovative quality of an event or marketing initiative and will view favorably new events and new marketing initiatives or those events and marketing initiatives that are enhanced or distinctive in nature.

f. Budget: 10 points. The authority will view favorably budgets that are well-developed and relevant to the project and that provide documentation of planned project expenses.

g. Collaboration: 5 points. The authority will view favorably applications that either represent a collaboration of multiple entities or show the benefit of the project to multiple entities within the tourism industry, or both.

42.4(2) Approval process. The director of the authority will establish a review committee consisting of individuals affiliated with the Iowa tourism industry. The committee will score all completed applications in accordance with the criteria described in rules 261—42.3(15) and 261—42.4(15) and will use those scores to determine successful applicants. The committee may recommend partial funding of any or all applicants. If, after initially scoring all of the completed applications, the review committee is not able to allocate all the funds available, the authority may allow one or more additional rounds of applications to be submitted and scored. If any awards are rejected, the authority may allow one or more additional rounds of applications to be submitted and scored. For each additional round of applications, the authority will follow the same eligibility requirements and use the same scoring criteria as used in earlier rounds. The authority may accept as many rounds of applications for awards as it deems appropriate.

[ARC 1493C, IAB 6/11/14, effective 5/19/14; ARC 3023C, IAB 4/12/17, effective 5/17/17]

261—42.5(15) Contract administration.

42.5(1) Notice of approval. The authority will notify successful applicants in writing of an approved request for funding. Such a notification may include the terms or conditions under which approval is granted.

42.5(2) Contract required. Each successful applicant that accepts the recommended award amount shall enter into a contract with the authority. The contract will describe the project that the applicant will institute as described in the application and will include the terms and conditions under which the grant funds will be disbursed. The contract will also include the terms and conditions under which grant funds must be repaid or penalties incurred in the event the grantee does not fulfill all obligations under the contract.

42.5(3) Contract amendments. All requests by a grantee for an amendment to the contract will require the approval of the director of the authority. The director will review each such request and approve or deny it. If a request is approved, the grantee and the director will execute a written amendment to the contract. Only a written amendment duly executed by both parties to the contract will be valid and binding.

42.5(4) Reports required. Each grantee shall submit a written report to the authority within 60 days of the end of the project completion date, as specified in the contract.

42.5(5) Record keeping. Each grantee shall maintain all records necessary for the verification and validation of the proper use of grant funds under the contract and shall submit such records to the authority upon request.

[ARC 1493C, IAB 6/11/14, effective 5/19/14]

261—42.6(15) Expenses, records, and reimbursements.

42.6(1) General. Each grantee shall at all times incur expenses and be reimbursed for such expenses by the authority only as described in this chapter or in a contract executed hereunder. The authority may deny reimbursement for any expenditure not directly related to the implementation of a tourism-related marketing initiative, meeting or event.

42.6(2) Eligible expenses. Only expenditures directly related to the implementation of a tourism-related marketing initiative, meeting or event will be reimbursed under the program. Examples of eligible expenses include the following:

a. The costs associated with all phases of the execution of marketing tactics and strategies, including planning and design and production of tools such as advertising, print materials, digital tools and exhibits for consumer-focused tradeshows.

b. The costs associated with acquiring a regional or national tourism-related meeting, including but not limited to bid fees, rights fees, sponsorships, payments to vendors, venue rental, and equipment rental.

c. The costs associated with executing a local event or festival, including but not limited to payments to vendors, payments to speakers or entertainers, venue rental, and equipment rental for new events or existing events in Iowa in order to augment the event.

42.6(3) *Ineligible expenses.* Expenses that are not directly related to the implementation of a tourism-related marketing initiative, meeting or event will be deemed ineligible. Ineligible expenses include but are not limited to vertical infrastructure; staff salaries and wages; equipment and software; solicitation efforts; lobbying fees; items that are purchased for resale; prizes given to participants or event/festival attendees; alcoholic beverages; internships; all travel, meal and lodging costs of applicant staff or the applicant's contractor; projects that receive funding from the authority's regional sports authority district program; marketing programs already subsidized by the authority including, but not limited to, advertising in the Iowa travel guide or participation in the cooperative partnership program; or a project of an Iowa tourism region.

42.6(4) *Required records and reimbursements.* A grantee shall submit any records requested by the authority as documentation of the expenditures incurred for implementation of the project. Such records may include invoices, original receipts, or check copies. If a grantee pays an expense using a credit card, the grantee shall submit a copy of a check register or bank statement indicating that the credit card invoice was paid. The authority will not reimburse expenses included on a nonitemized receipt.

42.6(5) *Repayments of certain funds.* If the authority reimburses a grantee for the cost of a refundable bid fee and the grantee is unsuccessful in the effort to win the right to hold that event, then the grantee shall return the amount of such reimbursement to the authority.

42.6(6) *Reallocation of funds.* If, at the time of a grantee's final reporting of expenses, the grantee cannot adequately document eligible expenses or documents an amount that is less than the awarded amount, the authority may award additional funds to other grantees, open additional rounds of applications, or revert the moneys to the general fund. If the authority awards additional funds to other grantees, such grantees shall submit documentation establishing how such funds will be expended, and the authority will execute contract amendments providing for the expenditure of the additional funds.

[ARC 1493C, IAB 6/11/14, effective 5/19/14; ARC 3023C, IAB 4/12/17, effective 5/17/17]

These rules are intended to implement Iowa Code section 15.106A.

[Filed Emergency After Notice ARC 1493C (Notice ARC 1380C, IAB 3/19/14), IAB 6/11/14,
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[Filed ARC 3023C (Notice ARC 2893C, IAB 1/18/17), IAB 4/12/17, effective 5/17/17]

CHAPTER 4
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

761—4.1(22,305) General provisions.

4.1(1) *Scope of chapter.*

a. This chapter describes the provisions governing public access to records that are owned by or in the physical possession of the department. However, access to personnel and payroll records may also be subject to the rules of the department of administrative services.

b. This chapter does not affect the policy of the department to respond, without charge, to routine oral or written inquiries that do not involve the furnishing of records.

c. This chapter does not make available records compiled by the department in reasonable anticipation of court litigation or formal administrative proceedings. The availability of these records to the public or to any individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the department.

4.1(2) *Custodian.* The custodian of a record is the person who heads the departmental office responsible for that record. The department's electronic Records Management Manual identifies the offices that are responsible for particular records.

a. As used in this chapter, the term "custodian" includes the custodian's superiors and the custodian's designees.

b. A custodian's designee may include but is not limited to the records center.

c. The custodian of a record is authorized to provide or deny access to that record in accordance with the provisions of this chapter. However, the custodian's authority to provide access to a confidential record is limited to the persons listed in subrule 4.4(2).

4.1(3) *Address of records center.* The address of the department's records center is: Records Management Section, Information Technology Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

4.1(4) *Records Management Manual.*

a. The department's electronic Records Management Manual contains the records management information required by Iowa Code chapter 305, including descriptions of department records and their formats, management, maintenance, storage, retention, security, and disposal.

b. The manual also contains the descriptive information on records that is required by Iowa Code section 22.11. The manual is updated as needed and its provisions are made a part of these rules.

c. The manual is available for examination and copying at the department's records center and at various other departmental offices located throughout the state. A copy of the manual may also be obtained, upon request, from the records center.

4.1(5) *Availability of open records.* Open records of the department are available to the public for examination and copying unless otherwise provided by state or federal law, regulation or rule.

4.1(6) *Data processing matching.* All departmental data processing systems that have common data elements can potentially match, collate and compare personally identifiable information.

4.1(7) *Warranty.* No warranty of the accuracy or completeness of a record is made.

4.1(8) *Existing records.* A request for access shall apply only to records that exist at the time the request is made and access is provided. The department is not required to create, compile or procure a record solely for the purpose of making it available. EXCEPTIONS: See Iowa Code section 22.3A and subrule 4.4(4).

4.1(9) *Definitions.* As used in this chapter:

"Confidential record" means a record that is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the department is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7 or another provision of law, but that may be disclosed upon order of the court, the custodian of the record, or by another person duly authorized

to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“Open record” means a record other than a confidential record.

“Personally identifiable information” means information about an individual in a record that identifies the individual and is retrievable by a unique personal identifier associated with the individual.

“Public” means those persons who are not officials, employees or agents of the department.

“Record” means the whole or a part of a “public record” as defined in Iowa Code section 22.1 that is owned by or in the physical possession of the department.

“Requester” means a member of the public.

This rule is intended to implement Iowa Code chapter 22 and section 305.15.

[ARC 7909B, IAB 7/1/09, effective 7/1/09; ARC 2049C, IAB 7/8/15, effective 8/12/15]

761—4.2(22) Statement of policy and purpose. It is the policy of the department that free and open examination of public records is generally in the public interest. The purpose of these rules is to facilitate broad public access to open records and sound determinations with respect to the handling of confidential records.

This rule is intended to implement Iowa Code chapter 22.

761—4.3(22) Access to records.

4.3(1) Submission of request for access.

a. A request for access to a record shall be submitted to the custodian of the record. If the requester does not know the identity of the custodian, the request may be submitted to the records center at the address in subrule 4.1(3). The records center will forward the request to the custodian.

b. Notwithstanding paragraph “a” of this subrule, any request that may be related to a potential or an actual tort claim or other litigation shall be submitted to the following address: General Counsel, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. If the custodian receives a request of this nature, the custodian shall forward the request to the department’s general counsel.

c. If a request for access is misdirected, department personnel will forward the request to the custodian.

4.3(2) Office hours. Open records are available during customary office hours, which are 8 a.m. to 4:30 p.m., excluding Saturdays, Sundays, and legal holidays.

4.3(3) Form of request. A request for access to a record shall reasonably describe the record requested. A request for access to an open record may be made orally or in writing. A requester shall not be required to give reasons for requesting an open record.

4.3(4) Response to request. The custodian shall provide access to an open record promptly upon request. However, if the size or nature of the request makes prompt access infeasible, the custodian shall fill the request as soon as feasible and give the requester an estimate of when the record will be available.

4.3(5) Delay. Access to a record may be delayed for one of the purposes authorized by Iowa Code subsection 22.8(4) or 22.10(4). The custodian shall inform the requester of the reason for the delay and the estimated length of the delay.

4.3(6) Security of records. No person may, without permission from the custodian, search agency files or remove any record from the place where it is made available. The custodian shall supervise the examination and copying of records and protect the records from damage and disorganization. Original paper records shall be released from department custody only upon court order. At least one certified copy shall be retained in the file if the original record is released.

4.3(7) Copies. A photocopy of an open record may be made on department photocopiers. If a photocopier is not available in the office where an open record is kept, the custodian shall permit its examination in that office and, if requested, arrange to have a copy made elsewhere. Most department records are stored in electronic formats; therefore, if the requested record is electronic, an electronic copy will be provided. If the requester is unable to open and read an electronic copy, or if the record does not exist in electronic form, a hard copy will be provided.

4.3(8) Fees. The department may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. Under Iowa Code section 22.3, the fee for the copying service, whether electronic or hard copy, shall not exceed the cost of providing the service.

This rule is intended to implement Iowa Code sections 22.2, 22.3, 22.4, 22.8, 22.10, and 22.11.
[ARC 2049C, IAB 7/8/15, effective 8/12/15]

761—4.4(22) Access to confidential records. The following provisions are in addition to those specified in rule 761—4.3(22) and are minimum requirements. A statute or another department rule may impose additional requirements for access to certain classes of confidential records. A confidential record may, due to its nature or the way it is compiled or stored, contain a mixture of confidential and nonconfidential information. The department shall not refuse to release the nonconfidential information simply because of the manner in which the record is compiled or stored.

4.4(1) Procedure.

a. Form of request. The custodian shall ensure that there is sufficient information to provide reasonable assurance that access to a confidential record may be granted. Therefore, the custodian may require the requester to:

- (1) Submit the request in writing.
- (2) Provide proof of identity and authority to secure access to the record.
- (3) Sign a certified statement or affidavit listing the specific reasons justifying access to the record and provide any proof necessary to establish relevant facts.

b. Response to request. The custodian shall notify the requester of approval or denial of the request for access. If the requester indicates to the custodian that a written notice is desired if the request for access is denied, the custodian shall provide such notice promptly. The notice shall be signed by the custodian and include:

- (1) The name and title or position of the custodian, and
- (2) A brief statement of the grounds for denial, including a citation to the applicable statute or other provision of law.

c. Reconsideration of denial. A requester whose request is denied by the custodian may apply to the director of transportation for reconsideration of the request.

4.4(2) Release of confidential records by the custodian. The custodian may release a confidential record or a portion of it:

- a.* To the legislative services agency pursuant to Iowa Code section 2A.3.
- b.* To the ombudsman pursuant to Iowa Code section 2C.9.
- c.* To other governmental officials and employees only as needed to discharge their duties.
- d.* To those persons as permitted or required by rule 761—4.9(22).
- e.* To persons authorized by the subject of the record in accordance with rule 761—4.5(22).
- f.* To the public information board pursuant to Iowa Code section 23.6.

4.4(3) Release of confidential records by the director.

a. The director of transportation may release a confidential record or a portion of it to a person not covered in subrule 4.4(2) if the release:

- (1) Is permitted by statute, rule or another provision of law, and
- (2) Is not inconsistent with the stated or implied purpose of the law which establishes or authorizes confidentiality.

b. Before the director of transportation releases a record to a person not covered in subrule 4.4(2), the director of transportation may notify the subject of the record of the impending release and may give the subject a reasonable amount of time to seek an injunction.

4.4(4) Information released. If a person is provided access to less than an entire record, the department shall take measures to ensure that the person is furnished only the information that is to be released. This may be done by providing to the person either an extraction of the information to be released or a copy of the record from which the information not to be released has been deleted.

This rule is intended to implement Iowa Code section 22.11.

[ARC 2049C, IAB 7/8/15, effective 8/12/15; ARC 3026C, IAB 4/12/17, effective 5/17/17]

761—4.5(22) Consent to release a confidential record to a third party. To the extent permitted by law, the subject of a confidential record may consent to its release to a third party. The consent must be in writing and must identify the particular record that may be disclosed and the particular person or class of persons to whom the record may be disclosed. The subject of the record may be required to provide proof of identity. Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record may be deemed to constitute consent for the department to disclose records about that person to the person's counsel.

This rule is intended to implement Iowa Code section 22.11.

761—4.6(22) Requests for confidential treatment.

4.6(1) A person may request that all or a portion of a record be confidential. The request must be submitted in writing to the custodian and:

- a. Identify the information for which confidential treatment is sought.
- b. Cite the legal basis that justifies confidential treatment.
- c. Demonstrate that disclosure of the information would clearly not be in the public interest.
- d. Give the reasons why any person or persons would be substantially and irreparably injured by disclosure of the information. The requester may be required to provide any proof necessary to support these reasons.

4.6(2) The custodian shall notify the requester in writing of the granting or denial of the request and, if denied, the reasons therefor.

4.6(3) If the request is denied, the requester may apply to the director of transportation for reconsideration of the request.

This rule is intended to implement Iowa Code sections 22.8 and 22.11.

[ARC 2049C, IAB 7/8/15, effective 8/12/15]

761—4.7(22) Procedure by which additions, dissents, or objections may be entered into records. Except as otherwise provided by law, the person who is the subject of a record may have a written statement of additions, dissents or objections entered into that record. The statement shall be filed with the custodian. The statement must be dated and signed by the person who is the subject of the record and include the person's current address and telephone number. This rule does not authorize the person who is the subject of the record to alter the original record or to expand the official record of any agency proceeding.

This rule is intended to implement Iowa Code section 22.11.

761—4.8(22) Notice to suppliers of information. When the department requests a person to supply information about that person, the department shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these or other rules of the department, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, orally, or by other appropriate means.

This rule is intended to implement Iowa Code section 22.11.

761—4.9(22) Confidential records. This rule describes the types of departmental information or records that are confidential. This rule is not exhaustive. A citation of the legal authority for confidentiality follows each description. The following records shall be kept confidential. Records are listed by category, according to the legal basis for withholding them from public inspection.

Descriptions:

4.9(1) Records which are exempt from disclosure under Iowa Code section 22.7.

4.9(2) Records which constitute attorney work product, attorney-client communications, or are otherwise privileged. (Attorney work product is confidential under Iowa Code sections 22.7, 622.10 and 622.11, Iowa R. C. P. 1.503, Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications

are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Iowa Rules of Professional Conduct, and case law.)

4.9(3) Those portions of the department's staff manuals, instructions or other statements issued by the department which set forth criteria or guidelines to be used by its departmental staff in auditing, making inspections, settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when the disclosure of such statements would enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons who are in an adverse position to the department. (Iowa Code sections 17A.2 and 17A.3)

4.9(4) The detailed minutes and recordings of closed sessions of the commission. However, if a closed session regards a real estate purchase or sale, the minutes and recording shall be available for public inspection when the transaction discussed is completed. (Iowa Code section 21.5)

4.9(5) Vehicle accident reports submitted to the department by drivers and peace officers. (Iowa Code sections 321.266 and 321.271)

a. However, access shall be granted to those persons authorized by Iowa Code section 321.271.

b. Reserved.

4.9(6) Unless otherwise ordered by the court, all information filed with the court for the purpose of securing a warrant for an arrest including, but not limited to, a citation and affidavits, until such time as a peace officer has made the arrest and has made the officer's return on the warrant, or the defendant has made an initial appearance in court. (Iowa Code section 804.29)

a. However, the information in the record may be disseminated without court order during the course of official duties to the persons authorized in Iowa Code section 804.29.

b. Reserved.

4.9(7) All information filed with the court for the purpose of securing a warrant for a search, including, but not limited to, an application and affidavits, until such time as a peace officer has executed the warrant and has made return thereon. (Iowa Code section 808.13)

a. During the period of time that information is confidential, it shall be sealed by the court, and the information contained therein shall not be disseminated to any person other than a peace officer, magistrate or other court employee, in the course of official duties.

b. Reserved.

4.9(8) Information obtained by the department from the examining of reports, returns or records required to be filed or kept under the provisions of Iowa Code chapter 452A, except where disclosure is authorized by Iowa Code chapter 452A. (Iowa Code section 452A.63)

4.9(9) Sealed bids, until the time set for the public opening of bids, whereupon bids are unsealed and no longer confidential. (Iowa Code section 72.3)

4.9(10) Those records which, if disclosed, would diminish competition or would give an improper advantage to persons who are in an adverse position to the department. These records shall be kept confidential until the transaction to which they relate is consummated. However, if disclosure would reveal information which would hinder future competition, the records shall be kept confidential. (Iowa Code sections 17A.2, 17A.3, 22.7 and 313.10, Iowa Code chapter 553, and 761—Chapter 20)

a. Examples of records which could, in the proper circumstances, be determined to be within this category include, but are not limited to:

(1) Detailed estimates of the cost of a proposed contract.

(2) Economic analyses for determining pavement types.

(3) Negotiations for a proposed contract.

(4) Methodology for determining unfair bidding practices or bid rigging.

(5) Price quotations solicited.

(6) The value of points assigned to a bid rating formula prior to the time set for public opening of bids.

(7) Laboratory testing reports of suppliers' products. These may also be trade secrets. The subject of the report has the right of access to it.

b. Reserved.

4.9(11) Audit reviews for determining equal employment opportunity contract compliance. (Iowa Code section 22.7 and 5 U.S.C. §§ 552 and 552a)

a. The subject of the audit review has the right of access to it.

b. Reserved.

4.9(12) All financial records and any information contained within them that are made available to the department, unless otherwise expressly permitted to be divulged by federal or state law. (Iowa Code sections 22.7 and 422.20 and 5 U.S.C. §§ 552 and 552a)

4.9(13) Personal information in any motor vehicle record, including personal information contained on electronic driver's license or nonoperator's identification card records that is provided by the licensee or card holder to the department for use by law enforcement, first responders, emergency medical service providers, and other medical personnel responding to or assisting with an emergency. (Iowa Code sections 22.7 and 321.11 and 18 U.S.C. § 2721 et seq.)

a. Information other than personal information contained on electronic driver's license or nonoperator's identification card records that is provided by the licensee or card holder to the department for use by law enforcement, first responders, emergency medical service providers, and other medical personnel responding to or assisting with an emergency may be disclosed only as provided in Iowa Code sections 321.11 and 321.11A, 18 U.S.C. § 2721 et seq., and 761—Chapters 415, 610 and 611.

b. The subject of the personal information has the right of access to the information.

4.9(14) A report received by the department from a physician licensed under Iowa Code chapter 148, an advanced registered nurse practitioner licensed under Iowa Code chapter 152 and licensed with the board of nursing, a physician assistant licensed under Iowa Code chapter 148C or an optometrist licensed under Iowa Code chapter 154 regarding a person who has been diagnosed as having a physical or mental condition which would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. (Iowa Code section 321.186)

4.9(15) Certain records regarding undercover driver's licenses issued to peace officers, as specified in 761—Chapter 625. (Iowa Code sections 22.7 and 321.189A)

a. The subject of the record and the head of the law enforcement agency employing the subject have the right of access to the record.

b. Reserved.

4.9(16) Records related to confidential plates issued for government vehicles. (Iowa Code section 321.19)

a. The head of the agency to which the vehicle is assigned has the right of access to the record.

b. Reserved.

4.9(17) Certified transcripts of labor payrolls (also known as certified payroll records) filed by contractors for federal-aid construction contracts, in accordance with the following paragraphs. (Iowa Code section 22.7, 5 U.S.C. §§ 552 and 552a, and 42 U.S.C. § 405)

a. The social security numbers in a certified payroll record are confidential. The record itself may be confidential if its release would give advantage to competitors and serve no public purpose.

b. The prime contractor and subcontractor, if applicable, that filed the record have the right of access to it.

c. Certified payroll records shall be released to the U.S. Department of Labor and Federal Highway Administration during investigations.

d. The custodian may release a certified payroll record with social security numbers withheld to representatives of the Iowa Labor Management Work Preservation Fund.

e. The custodian may release a certified payroll record with social security numbers withheld to persons outside the department other than the persons listed in paragraphs 4.9(17) "b" to "d" according to the following procedure:

(1) The request for the record must be in writing.

(2) The custodian shall send a copy of the request by registered mail to the prime contractor. If the request is for subcontractor information, the custodian shall send copies of the request to both the subcontractor and prime contractor.

(3) The requested record shall not be released until 14 calendar days have expired from receipt of the request by the contractor(s) to give the contractor(s) an opportunity to seek an injunction.

4.9(18) Information concerning an open or pending railroad accident investigation conducted on behalf of or in conjunction with the Federal Railroad Administration or National Transportation Safety Board to the extent necessary to prevent denial of funds, services or essential information from the United States government. (Iowa Code section 22.9)

4.9(19) A geographic computer database, except upon terms and conditions acceptable to the department. (Iowa Code section 22.2)

4.9(20) Confidential information, as defined in Iowa Code section 86.45, filed with the workers' compensation commissioner. (Iowa Code section 22.7)

4.9(21) An intelligence assessment and intelligence data under Iowa Code chapter 692, except where disclosure is required or authorized by the Iowa Code. (Iowa Code chapter 692 and Iowa Code section 22.7)

4.9(22) Information in a record that would permit the commission, subject to Iowa Code chapter 21, to hold a closed session pursuant to Iowa Code section 21.5 in order to avoid public disclosure of that information, until such time as final action is taken on the subject matter of that information or unless otherwise authorized by the Iowa Code. (Iowa Code section 22.7)

4.9(23) Records which contain information concerning security procedures, emergency preparedness, or disaster recovery related to the protection of property, facilities, and transportation infrastructure controlled, occupied, or owned by the department; employees of the department; visitors to the department's facilities or offices; other persons on premises controlled or owned by the department; or information concerning security procedures, emergency preparedness, or disaster recovery related to persons or property owned by or under the control of another governmental agency or private entity if that information was obtained by the department in relation to planning for emergencies or developing security procedures. Records under this subrule include, but are not limited to, all that contain information relating to vulnerability or risk assessments; security measures, such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information that, if disclosed, could significantly increase the vulnerability to attack of critical physical systems, infrastructures, or transportation critical assets, including information technology networks and systems. (Iowa Code section 22.7(50))

4.9(24) All other information or records that by law are or may be confidential.

This rule is intended to implement Iowa Code chapters 22, 553 and 692; Iowa Code sections 17A.2, 17A.3, 21.5, 72.3, 313.10, 321.11, 321.11A, 321.19, 321.186, 321.189A, 321.266, 321.271, 422.20, 452A.63, 622.10, 622.11, 804.29 and 808.13; 5 U.S.C. §§ 552 and 552a; 18 U.S.C. § 2721 et seq.; and 42 U.S.C. § 405.

[ARC 2049C, IAB 7/8/15, effective 8/12/15; ARC 3026C, IAB 4/12/17, effective 5/17/17]

761—4.10(22) Release of confidential records. Rescinded IAB 1/8/03, effective 2/12/03.

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CHAPTER 615 SANCTIONS

[Prior to 6/3/87, Transportation Department[820]—(07,C) Ch 6]

761—615.1(321) Definitions. The definitions in 761—600.1(321) apply to this chapter. In addition:

“Accident free” as used in Iowa Code section 321.180B means the driver has not been involved in a contributive accident. *“Involvement in a motor vehicle accident”* as used in Iowa Code section 321.180B means involvement in a contributive accident.

“Contributive accident” means an accident for which there is evidence in departmental records that the driver performed an act which resulted in or contributed to the accident, or failed to perform an act which would have avoided or contributed to the avoidance of the accident.

“Conviction free” as used in Iowa Code section 321.180B means the driver has not been convicted of a moving violation.

“Deny” or *“denial”* means a rejection of an application for a license or a refusal to issue, renew or reinstate a license.

“Moving violation,” unless otherwise provided in this chapter, means any violation of motor vehicle laws except:

1. Violations of equipment standards to be maintained for motor vehicles.
2. Parking violations as defined in Iowa Code section 321.210.
3. Child restraint and safety belt and harness violations under Iowa Code sections 321.445 and 321.446.
4. Violations of registration, weight and dimension laws.
5. Operating with an expired license.
6. Failure to appear.
7. Disturbing the peace with a motor vehicle.
8. Violations of Iowa Code Supplement section 321.20B for failure to provide proof of financial liability coverage.

“Sanction” means a license denial, cancellation, suspension, revocation, bar or disqualification.

This rule is intended to implement Iowa Code sections 321.1, 321.178, 321.180A, 321.189, 321.194, 321.210, 321.215, 321.445, 321.446 and 321.555.

761—615.2(321) Scope. This chapter of rules applies to any license, as defined in 761—600.1(321). However:

615.2(1) Rules specifically addressing denial, cancellation or disqualification of a commercial driver’s license are found in 761—Chapter 607, “Commercial Driver Licensing.”

615.2(2) Rules implementing Iowa Code chapter 321J are found in 761—Chapter 620, “OWI and Implied Consent.”

615.2(3) Rules implementing Iowa Code chapter 321A are found in 761—Chapter 640, “Financial Responsibility.”

This rule is intended to implement Iowa Code chapters 321, 321A and 321J.

761—615.3(17A) Information and address. Applications, forms and information concerning license sanctions are available at any driver’s license examination station or at the address in 761—600.2(17A).

This rule is intended to implement Iowa Code section 17A.3.

761—615.4(321) Denial for incapability.

615.4(1) A person who has a valid Iowa license that would otherwise be suspended for incapability shall, in lieu of a suspension, be denied further licensing if there is less than 30 days’ validity on the license.

- a. The denial shall be effective when the license is no longer valid.
- b. The license shall be surrendered to the department. The department shall issue a temporary driving permit which allows the person to drive until the effective date of the denial.

615.4(2) If a person who is denied licensing for incapability does not have a valid Iowa license, the department may refuse orally to issue a license, effective immediately, or may deny licensing in writing, effective on the date the denial notice is served.

This rule is intended to implement Iowa Code sections 321.177 and 321.210.

761—615.5 and 615.6 Reserved.

761—615.7(321) Cancellations.

615.7(1) The department shall cancel the license of an unmarried minor upon receipt of a written withdrawal of consent from the person who consented to the minor's application. The department shall also cancel a minor's license upon receipt of evidence of the death of the person who consented to the minor's application.

615.7(2) The department shall cancel a motorized bicycle license when the licensee is convicted of one moving violation. Reapplication may be made 30 days after the date of cancellation.

615.7(3) The department may cancel a license when the person was not entitled or is no longer entitled to a license, failed to give correct and required information, or committed fraud in applying.

615.7(4) A cancellation shall begin ten days after the department's notice of cancellation is served.

This rule is intended to implement Iowa Code sections 321.184, 321.185, 321.189, 321.201 and 321.215.

761—615.8 Reserved.

761—615.9(321) Habitual offender.

615.9(1) The department shall declare a person to be a habitual offender under Iowa Code subsection 321.555(1) in accordance with the following point system:

a. Points shall be assigned to convictions as follows:

<u>Conviction</u>	<u>Points</u>
Perjury or the making of a false affidavit or statement under oath to the department of public safety	2 points
Driving while under suspension, revocation or denial (except Iowa Code chapter 321J)	2 points
Driving while under Iowa Code chapter 321J revocation or denial	3 points
Driving while barred	4 points
Operating a motor vehicle in violation of Iowa Code section 321J.2	4 points
An offense punishable as a felony under the motor vehicle laws of Iowa or any felony in the commission of which a motor vehicle is used	5 points
Failure to stop and leave information or to render aid as required by Iowa Code sections 321.261 and 321.263	5 points
Eluding or attempting to elude a pursuing law enforcement vehicle in violation of Iowa Code section 321.279	5 points
Serious injury by a vehicle in violation of Iowa Code subsection 707.6A(3)	5 points
Manslaughter resulting from the operation of a motor vehicle	6 points

b. Based on the points accumulated, the person shall be barred from operating a motor vehicle on the highways of this state as follows:

<u>Points</u>	<u>Length of bar</u>
6 – 7	2 years
8 – 9	3 years
10 – 12	4 years
13 – 15	5 years
16+	6 years

615.9(2) A person declared to be a habitual offender under Iowa Code subsection 321.555(2) shall be barred from operating a motor vehicle on the highways of this state for one year.

615.9(3) A person declared to be a habitual offender under Iowa Code Supplement section 321.560, unnumbered paragraph 2, shall be barred from operating a motor vehicle on the highways of this state beginning on the date the previous bar expires.

This rule is intended to implement Iowa Code sections 321.555, 321.556 and 321.560.

761—615.10 Reserved.

761—615.11(321) Periods of suspension.

615.11(1) *Length.* The department shall not suspend a person's license for less than 30 days nor for more than one year unless a statute specifies or permits a different period of suspension.

615.11(2) *Extension of suspension.* The department shall extend the period of license suspension for an additional like period when the person is convicted of operating a motor vehicle while the person's license is suspended, unless a statutory exception applies. If the person's driving record does not indicate what the original grounds for suspension were, the period of license suspension shall not exceed six months.

This rule is intended to implement Iowa Code sections 321.212 and 321.218.

761—615.12(321) Suspension of a habitually reckless or negligent driver.

615.12(1) The department may suspend a person's license if the person is a habitually reckless or negligent driver of a motor vehicle.

a. "Habitually reckless or negligent driver" means a person who has accumulated a combination of three or more contributive accidents and convictions for moving violations or three or more contributive accidents within a 12-month period.

b. "Contributive or contributed" means that there is evidence in departmental records that the driver performed an act which resulted in or contributed to an accident, or failed to perform an act which would have avoided or contributed to the avoidance of an accident.

615.12(2) In this rule, the speeding violations specified in Iowa Code paragraph 321.210(2) "d" are not included.

615.12(3) The suspension period shall be at least 60 days.

This rule is intended to implement Iowa Code section 321.210.

761—615.13(321) Suspension of a habitual violator.

615.13(1) The department may suspend a person's license when the person is a habitual violator of the traffic laws. "Habitual violator" means that the person has been convicted of three or more moving violations committed within a 12-month period.

615.13(2) The minimum suspension periods shall be as follows unless reduced by a driver's license hearing officer based on mitigating circumstances:

3 convictions in 12 months	90 days
4 convictions in 12 months	120 days
5 convictions in 12 months	150 days
6 convictions in 12 months	180 days
7 or more convictions in 12 months	1 year

615.13(3) In this rule, the speeding violations specified in Iowa Code paragraph 321.210(2) “d” are not included.

This rule is intended to implement Iowa Code section 321.210.

761—615.14(321) Suspension for incapability. The department may suspend a person’s license when the person is incapable of safely operating a motor vehicle.

615.14(1) Suspension for incapability may be based on one or more of the following:

a. Receipt of a medical report stating that the person is not physically or mentally capable of safely operating a motor vehicle.

b. Failure of the person to appear for a required reexamination or failure to submit a required medical report within the specified time.

c. Ineligibility for licensing under Iowa Code subsections 321.177(4) to 321.177(7).

615.14(2) The suspension period shall be indefinite but shall be terminated when the department receives satisfactory evidence that the licensee has been restored to capability.

615.14(3) A person whose license has been suspended for incapability may be eligible for a special noncommercial instruction permit under rule 761—602.21(321).

This rule is intended to implement Iowa Code sections 321.177, 321.210, and 321.212.

761—615.15(321) Suspension for unlawful use of a license.

615.15(1) The department may suspend a person’s license when the person has been convicted of unlawful or fraudulent use of the license or if the department has received other evidence that the person has violated Iowa Code section 321.216, 321.216A or 321.216B.

615.15(2) The suspension period shall be at least 30 days.

615.15(3) A suspension for a violation of Iowa Code section 321.216B shall not exceed six months.

This rule is intended to implement Iowa Code sections 321.210, 321.212, 321.216, 321.216A and 321.216B.

761—615.16(321) Suspension for out-of-state offense. The department may suspend a person’s license when the department is notified by another state that the person committed an offense in that state which, if committed in Iowa, would be grounds for suspension. The notice may indicate either a conviction or a final administrative decision. The period of the suspension shall be the same as if the offense had occurred in Iowa.

This rule is intended to implement Iowa Code sections 321.205 and 321.210.

761—615.17(321) Suspension for a serious violation.

615.17(1) The department may suspend a person’s license when the person has committed a serious violation of the motor vehicle laws.

615.17(2) “*Serious violation*” means that:

a. The person’s conviction for a moving violation was accompanied by a written report from the arresting officer, the prosecuting attorney or the court indicating that the violation was unusually serious. The suspension period shall be at least 60 days.

b. The person was convicted of a moving violation which contributed to a fatal motor vehicle accident. “Contributed” is defined in paragraph 615.12(1) “b.” The suspension period shall be at least 120 days.

c. The person was convicted for speeding 25 miles per hour (mph) or more above the legal limit. The minimum suspension period shall be as follows unless reduced by a driver's license hearing officer based on mitigating circumstances:

25 mph over the legal limit	60 days
26 mph over the legal limit	65 days
27 mph over the legal limit	70 days
28 mph over the legal limit	75 days
29 mph over the legal limit	80 days
30 mph over the legal limit	90 days
31 mph over the legal limit	100 days
32 mph over the legal limit	110 days
33 mph over the legal limit	120 days
34 mph over the legal limit	130 days
35 mph over the legal limit	140 days
36 mph over the legal limit	150 days
37 mph over the legal limit	160 days
38 mph over the legal limit	170 days
39 mph over the legal limit	180 days
40 mph over the legal limit	190 days
41 mph over the legal limit	210 days
42 mph over the legal limit	230 days
43 mph over the legal limit	250 days
44 mph over the legal limit	270 days
45 mph over the legal limit	290 days
46 mph over the legal limit	310 days
47 mph over the legal limit	330 days
48 mph over the legal limit	350 days
49 mph or more over the legal limit	one year

d. The person was convicted of violating Iowa Code subsection 321.372(3). The suspension period shall be:

- (1) 30 days for a first conviction under Iowa Code subsection 321.372(3).
- (2) 90 days for a second conviction under Iowa Code subsection 321.372(3).
- (3) 180 days for a third or subsequent conviction under Iowa Code subsection 321.372(3).

This rule is intended to implement Iowa Code sections 321.210, 321.372 as amended by 2012 Iowa Acts, Senate File 2218, sections 2 and 5, and 321.491.

[ARC 0250C, IAB 8/8/12, effective 9/12/12; ARC 0309C, IAB 9/5/12, effective 8/15/12]

761—615.18(321) Suspension under the nonresident violator compact.

615.18(1) The department may suspend a person's license when a report is received from another state under the nonresident violator compact that an Iowa licensee has failed to comply with the terms of a traffic citation.

615.18(2) The suspension shall begin 30 days after the department's notice of suspension is served.

615.18(3) The suspension shall continue until the department issues a notice terminating the suspension. The department shall terminate the suspension when it receives evidence of compliance with the terms of the citation.

This rule is intended to implement Iowa Code sections 321.210 and 321.513.

761—615.19(321) Suspension for a charge of vehicular homicide. In accordance with Iowa Code section 321.210D, the department shall suspend a person's license when the department receives notice from the clerk of the district court that an indictment or information has been filed charging the person with homicide by vehicle under Iowa Code section 707.6A, subsection 1 or 2. The suspension shall begin ten days after the department's suspension notice is issued.

This rule is intended to implement Iowa Code section 321.210D.

761—615.20(321) Suspension for moving violation during probation. The department may suspend the license of a person convicted of a moving violation pursuant to Iowa Code section 321.210C. The suspension period shall not exceed one year.

This rule is intended to implement Iowa Code section 321.210C.

761—615.21(321) Suspension of a minor's school license and minor's restricted license.

615.21(1) *Suspension of a minor's school license.*

a. The department may suspend a minor's school license upon receiving notice of the licensee's conviction for one moving violation or evidence of one or more accidents chargeable to the licensee.

b. The department may also suspend a minor's school license when the department receives written notice from a peace officer, parent, custodian or guardian, school superintendent, or superintendent's designee that the licensee has violated the restrictions of the license.

c. The suspension period under this subrule shall be at least 30 days.

615.21(2) *Suspension of a minor's restricted license.* The department may suspend a minor's restricted license upon receiving notice of the licensee's conviction for one moving violation. The suspension period shall be at least 30 days.

This rule is intended to implement Iowa Code sections 321.178 and 321.194.

761—615.22(321) Suspension for nonpayment of fine, penalty, surcharge or court costs.

615.22(1) The department shall suspend a person's privilege to operate motor vehicles in Iowa when the department is notified by a clerk of the district court on Form No. 431037 that the person has been convicted of violating a law regulating the operation of motor vehicles, that the person has failed to pay the fine, penalty, surcharge or court costs arising out of the conviction, and that 60 days have elapsed since the person was mailed a notice of nonpayment from the clerk of the district court.

a. The suspension period shall begin 30 days after the notice of suspension is served.

b. The suspension shall continue until the department has issued a notice terminating the suspension. The department shall terminate the suspension when it receives evidence that all appropriate payments have been made.

c. An informal settlement, hearing or appeal to contest the suspension shall be limited to a determination of whether the facts required by Iowa Code section 321.210A and this subrule are true. The merits of the conviction shall not be considered.

615.22(2) Reserved.

This rule is intended to implement Iowa Code section 321.210A.

[ARC 0592C, IAB 2/6/13, effective 3/13/13]

761—615.23(321) Suspensions for juveniles.

615.23(1) *Suspension for juveniles adjudicated delinquent for certain offenses.*

a. Pursuant to Iowa Code section 321.213A, the department shall suspend the license of a person for one year upon receipt of an adjudication and dispositional order from the clerk of the juvenile court.

b. The department may issue to a person suspended under this subrule a temporary restricted license in accordance with rule 761—615.45(321) if issuance is permitted under Iowa Code section 321.215 and the person is otherwise eligible for the license. To obtain a temporary restricted license that is valid for educational purposes, the applicant must meet the requirements for issuance of a minor's school license under Iowa Code section 321.194 and rule 761—602.26(321).

615.23(2) *Suspension for juvenile's failure to attend school.*

a. The department shall suspend the driver's license of a person under the age of 18 upon receipt of notification from the appropriate school authority that the person does not attend school.

b. "School" means a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of Iowa Code chapter 299A, an alternative school or adult education classes.

c. "Appropriate school authority" means the superintendent of a public school or the chief administrator of an accredited nonpublic school, an alternative school or adult education.

d. The suspension shall continue until the person reaches the age of 18 or until the department receives notification from the appropriate school authority that the person is attending school.

e. The department may issue to the person a minor's restricted license in accordance with Iowa Code section 321.178 and rule 761—602.25(321) if the person is eligible for the license.

This rule is intended to implement Iowa Code sections 232.52(2)"a"(4), 299.1B, 321.213, 321.213A, 321.213B, and 321.215.

761—615.24(252J,261) Suspension upon receipt of a certificate of noncompliance.

615.24(1) *From child support recovery unit.*

a. The department shall suspend a person's Iowa-issued driver's license upon receipt of a certificate of noncompliance from the child support recovery unit.

b. The suspension shall begin 30 days after the department's notice of suspension is served.

c. The suspension shall continue until receipt of a withdrawal of the certificate of noncompliance from the child support recovery unit.

d. The filing of an application pursuant to Iowa Code section 252J.9 stays the suspension pending the outcome of the district court hearing.

615.24(2) *From college student aid commission.*

a. The department shall suspend a person's Iowa-issued driver's license upon receipt of a certificate of noncompliance from the college student aid commission.

b. The suspension shall begin 30 days after the department's notice of suspension is served.

c. The suspension shall continue until receipt of a withdrawal of the certificate of noncompliance from the college student aid commission.

d. The filing of an application pursuant to Iowa Code section 261.127 stays the suspension pending the outcome of the district court hearing.

615.24(3) *From department of revenue.* Rescinded IAB 2/8/12, effective 3/14/12.

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, 252J.9, 261.126 and 261.127. [ARC 7902B, IAB 7/1/09, effective 8/5/09; ARC 9991B, IAB 2/8/12, effective 3/14/12]

761—615.25(321) Suspension—driver's license indebtedness clearance pilot project. Rescinded IAB 11/8/06, effective 12/13/06.

761—615.26(321) Suspension or revocation for violation of a license restriction. The department may suspend or revoke a person's license when the department receives satisfactory evidence of a violation of a restriction imposed on the license. The suspension or revocation period shall be at least 30 days.

This rule is intended to implement Iowa Code section 321.193.

761—615.27 and 615.28 Reserved.

761—615.29(321) Mandatory revocation.

615.29(1) The department shall revoke a person's license upon receipt of a record of the person's conviction for an offense listed under Iowa Code section 321.209 or upon receipt of an order issued pursuant to Iowa Code subsection 901.5(10).

615.29(2) The department shall revoke a person's license under Iowa Code subsection 321.209(2) upon receipt of a record of the person's conviction for a felony:

a. Which provides specific factual findings by the court that a motor vehicle was used in the commission of the offense,

b. Which is accompanied by information from the prosecuting attorney indicating that a motor vehicle was used in the commission of the crime, or

c. Where the elements of the offense actually required the use of a motor vehicle.

615.29(3) The revocation period shall be at least one year except:

a. The revocation period for two convictions of reckless driving shall be at least five days and not more than 30 days.

b. The revocation period for a first offense for drag racing shall be six months if the violation did not result in personal injury or property damage.

c. The revocation period for an order issued pursuant to Iowa Code subsection 901.5(10) is 180 days.

This rule is intended to implement Iowa Code sections 321.209, 321.212, 321.261 and 707.6A.

761—615.30(321) Revocation for out-of-state offense.

615.30(1) The department may revoke an Iowa resident's license when the department is notified by another state that the person committed an offense in that state which, if committed in Iowa, would be grounds for revocation. The notice may indicate either a conviction or a final administrative decision. The period of the revocation shall be the same as if the offense had occurred in Iowa.

615.30(2) Rescinded IAB 11/20/96, effective 12/25/96.

This rule is intended to implement Iowa Code section 321.205.

761—615.31(321) Revocation for violation of a license restriction. Rescinded IAB 11/18/98, effective 12/23/98.

761—615.32(321) Extension of revocation period. The department shall extend the period of license revocation for an additional like period when the person is convicted of operating a motor vehicle while the person's license is revoked.

This rule is intended to implement Iowa Code sections 321.218 and 321J.21.

761—615.33(321) Revocation of a minor's license.

615.33(1) The department shall revoke a minor's restricted license upon receiving a record of the minor's conviction for two or more moving violations.

615.33(2) The department shall revoke a minor's school license upon receiving a record of the minor's conviction for two or more moving violations.

This rule is intended to implement Iowa Code subsection 321.178(2) and section 321.194.

761—615.34(321J) Other revocations. Rescinded IAB 11/18/98, effective 12/23/98.

761—615.35 Reserved.

761—615.36(321) Effective date of suspension, revocation, disqualification or bar. Unless otherwise specified by statute or rule, a suspension, revocation, disqualification or bar shall begin 30 days after the department's notice of suspension, revocation, disqualification or bar is served.

This rule is intended to implement Iowa Code sections 321.208, 321.209, 321.210, and 321.556.

761—615.37(321) Service of notice.

615.37(1) The department shall send a notice of denial, cancellation, suspension, revocation, disqualification or bar by first-class mail to the person's mailing address as shown on departmental records.

615.37(2) In lieu of service by mail, the notice may be delivered by a peace officer, a departmental employee, or any person over 18 years of age.

a. The person serving the notice shall prepare a certificate of personal service certifying delivery, specifying the name of the receiver, the address and the date, or certifying nondelivery.

b. The department shall pay fees for personal service of notice by a sheriff as specified in Iowa Code section 331.655. The department may also contract for personal service of notice when the department determines that it is in the best interests of the state.

615.37(3) The denial, cancellation, suspension, revocation, disqualification or bar shall become effective on the date specified in the notice.

615.37(4) The department may prepare an affidavit of mailing verifying the fact that a notice was mailed by first-class mail. To verify the mailing of a notice, the department may use its records in conjunction with U.S. Postal Service records available to the department. The department's affidavit of mailing may be attested to and certified in accordance with Iowa Code section 622.1.

This rule is intended to implement Iowa Code sections 321.16, 321.211, 321.211A, 321.556, 321J.9, 321J.12, and 331.655.

[ARC 3027C, IAB 4/12/17, effective 5/17/17]

761—615.38(17A,321) Hearing and appeal process.

615.38(1) *Applicability.* This rule applies to:

a. License denials, cancellations and suspensions under Iowa Code sections 321.177 to 321.215 and 321A.4 to 321A.11 except denials under Iowa Code subsection 321.177(10) and suspensions under Iowa Code sections 321.210B, 321.210D, 321.213A and 321.213B.

b. License suspensions and revocations under Iowa Code sections 321.218 and 321J.21.

c. License revocations under Iowa Code sections 321.193 and 321.205.

d. Disqualifications from operating a commercial motor vehicle under Iowa Code section 321.208.

e. License bars under Iowa Code section 321.556.

615.38(2) *Submission of request or appeal.*

a. A person subject to a sanction listed in subrule 615.38(1) may contest the action by following the provisions of 761—Chapter 13 as supplemented by this rule.

b. A request for an informal settlement, a request for a contested case hearing, or an appeal of a presiding officer's decision shall be submitted to the director of the office of driver services at the address in 761—600.2(17A).

c. The request or appeal shall include the person's name, date of birth, driver's license or permit number, complete address and telephone number, and the name, address and telephone number of the person's attorney, if any.

615.38(3) *Informal settlement or hearing.*

a. The person may request an informal settlement. Following an unsuccessful informal settlement procedure, or instead of that procedure, the person may request a contested case hearing.

b. Notwithstanding paragraph “a” of this subrule, a request received from a person who has participated in a driver improvement interview on the same matter shall be deemed a request for a contested case hearing.

c. A request for an informal settlement or a request for a contested case hearing shall be deemed timely submitted if it is delivered to the director of the office of driver services or postmarked within the time period specified in the department's notice of the sanction.

(1) Unless a longer time period is specified in the notice or another time period is specified by statute or rule, the time period shall be 20 days after the notice is served.

(2) If the department fails to specify a time period in the notice, the request may be submitted at any time.

615.38(4) *Appeal.* An appeal of a presiding officer's decision shall be submitted in accordance with 761—13.7(17A).

615.38(5) *Stay of sanction.*

a. When the department receives a properly submitted, timely request for an informal settlement, request for a contested case hearing or appeal of a presiding officer's proposed decision regarding a sanction listed in subrule 615.38(1), it shall, after a review of its records to determine eligibility, stay

(stop) the sanction pending the outcome of the settlement, hearing or appeal unless prohibited by statute or rule or unless otherwise specified by the requester/appellant.

(1) If the stay is granted, the department shall issue and send to the person a notice granting the stay. The stay is effective on the date of issuance. The notice allows the person to drive while the sanction is stayed if the license is valid and no other sanction is in effect.

(2) A person whose stay authorizes driving privileges shall carry the notice of stay at all times while driving.

b. Of the sanctions listed in subrule 615.38(1), the department shall not stay the following, and the person's driving privileges do not continue:

(1) A suspension for incapability.

(2) A denial.

(3) A disqualification from operating a commercial motor vehicle.

(4) A suspension under Iowa Code section 321.180B.

(5) A suspension or revocation under Iowa Code section 321.218 or 321J.21.

This rule is intended to implement Iowa Code chapter 17A and sections 321.177 to 321.215, 321.218, 321.556, 321A.4 to 321A.11, and 321J.21.

761—615.39(321) Surrender of license. A person whose Iowa license has been canceled, suspended, revoked or barred or who has been disqualified from operating a commercial motor vehicle shall surrender the license to the designated representative of the department on or before the effective date of the sanction.

This rule is intended to implement Iowa Code sections 321.201, 321.208, 321.212, 321.216, 321.556, and 321A.31.

761—615.40(321) License reinstatement or reissue. A person who becomes eligible for a license after a denial, cancellation, suspension, revocation, bar or disqualification shall be notified by the department to appear before a driver license examiner to obtain or reinstate the license. The license may be issued if the person has:

615.40(1) Filed proof of financial responsibility under Iowa Code chapter 321A, when required, for all vehicles to be operated. The class of license issued will depend on the examinations passed and other qualifications of the applicant. Regardless of the class of license issued, the license shall be valid only for the operation of the motor vehicles covered under the proof of financial responsibility filed by the applicant.

615.40(2) Paid the civil penalty when required. The civil penalty is specified in Iowa Code Supplement section 321.218A or 321A.32A.

615.40(3) Complied with the specific instructions given in the department's notice terminating the sanction.

615.40(4) Successfully completed the required driver license examination.

615.40(5) Paid the reinstatement fee when required. The reinstatement fee is specified in Iowa Code section 321.191.

615.40(6) Paid the appropriate license fee or duplicate license fee. These fees are specified in Iowa Code sections 321.191 and 321.195.

This rule is intended to implement Iowa Code sections 321.186, 321.191, 321.195, 321.208, 321.212, and 321A.17 and Iowa Code Supplement sections 321.218A and 321A.32A.

[ARC 7902B, IAB 7/1/09, effective 8/5/09]

761—615.41(321) Investigation of convictions based on fraud. A person requesting investigation of fraudulent use of a person's name or other fraudulent identification that resulted in a record of conviction for a scheduled violation under Iowa Code chapter 321 and listed in Iowa Code section 805.8A may submit a written application to the department using Form 420049, Identity Theft Complaint. The department shall review the application and may investigate, if appropriate, as required by Iowa Code section 321.200A. Form 420049 may be obtained by contacting the bureau of investigation and identity

protection by mail at Bureau of Investigation and Identity Protection, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or on the department's Web site.

This rule is intended to implement Iowa Code section 321.200A.
[ARC 2424C, IAB 3/2/16, effective 4/6/16]

761—615.42(321) Remedial driver improvement action under Iowa Code section 321.180B.

615.42(1) The department shall require remedial driver improvement action when a person holding an instruction permit, an intermediate license or a full-privilege driver's license under Iowa Code section 321.180B is convicted of a moving violation or has a contributive accident and the violation or accident occurred during the term of the instruction permit or intermediate license.

615.42(2) Completion of remedial driver improvement action means any or all of the following as determined by the department: suspension, safety advisory letter, additional restriction(s), vision screening, knowledge examination, and driving examination.

615.42(3) A suspension period under this rule shall be for no less than 30 days nor longer than one year. A person whose driving privilege has been suspended under this rule is not eligible for a temporary restricted license.

615.42(4) Remedial driver improvement action or suspension under this rule terminates when a person attains the age of 18.

This rule is intended to implement Iowa Code section 321.180B.
[ARC 7902B, IAB 7/1/09, effective 8/5/09]

761—615.43(321) Driver improvement program.

615.43(1) *When required.*

a. In lieu of suspension, the department may require the following persons to attend and successfully complete, at the person's own expense, a driver improvement program approved by the department:

- (1) A habitual violator.
 - (2) A person who is convicted for speeding at least 25 but not more than 29 miles per hour over the legal limit.
 - (3) A person whose license is subject to suspension under Iowa Code section 321.210C.
- b.* However, a person shall not be assigned to a driver improvement program more than once within a two-year period.

615.43(2) *Scheduling.* The department shall schedule attendance at a program nearest the person's last known address.

a. One request for rescheduling may be granted if the program begins within 30 days of the originally scheduled date and if space is available.

b. A request to attend a program in another state may be granted if the curriculum is approved by the department.

615.43(3) *Probation.* When a person is required to attend and successfully complete a driver improvement program, the department shall also require the person to complete a probationary driving period not to exceed one year. One conviction for a moving violation committed during probation may result in suspension of the person's license. The suspension period shall be at least 90 days, unless reduced by a driver's license hearing officer based on mitigating circumstances.

615.43(4) *Failure to attend.* The department shall suspend the license of a person who is required to attend a driver improvement program and who does not attend, or does not successfully complete, the program. The suspension period shall be at least 90 days.

This rule is intended to implement Iowa Code sections 321.210 and 321.210C.

761—615.44(321) Driver improvement interview.

615.44(1) The department may require a person whose license is subject to suspension to appear for a driver improvement interview.

615.44(2) The department may take one or more of these remedial actions following the interview:

- a.* Suspend the person's license and issue a temporary driving permit which will allow the person to drive until the effective date of the suspension.
- b.* Place the person on probation. One conviction for a moving violation committed during probation may result in suspension of the person's license.
- c.* Restrict the person's license to specified vehicles, times, routes, locations, or other conditions.
- d.* Order the person to successfully complete a driver improvement program in accordance with rule 615.43(321).
- e.* Take no further action.

615.44(3) The department shall suspend the license of a person who is required to appear for a driver improvement interview and fails to appear.

This rule is intended to implement Iowa Code sections 321.193 and 321.210.

761—615.45(321) Temporary restricted license (work permit).

615.45(1) *Ineligibility.* The department shall not issue a temporary restricted license under Iowa Code subsection 321.215(1) to an applicant:

- a.* Whose license has been denied or canceled.
- b.* Whose license has been suspended for incapability.
- c.* Whose license has been suspended for noncompliance with the financial responsibility law.
- d.* Whose minor's school license or minor's restricted license has been suspended or revoked.
- e.* Whose license has been suspended for failure to pay a fine, penalty, surcharge or court costs.
- f.* Whose period of suspension or revocation has been extended for operating a motor vehicle while under suspension or revocation.
- g.* Whose license has been mandatorily revoked under Iowa Code section 321.209, subsections 1 to 5 or subsection 7, or for a second or subsequent conviction for drag racing.
- h.* Whose license has been suspended under the nonresident violator compact.
- i.* Who is barred under Iowa Code section 321.560.
- j.* Whose license has been suspended or revoked for a drug or drug-related offense.
- k.* Whose license has been suspended due to receipt of a certificate of noncompliance from the child support recovery unit.
- l.* Whose license has been suspended due to receipt of a certificate of noncompliance from the college student aid commission.
- m.* Whose license has been suspended for a charge of vehicular homicide.
- n.* Who has been suspended under Iowa Code subsection 321.180B(3).

615.45(2) *Application.*

a. To obtain a temporary restricted license, an applicant shall submit a written request for an interview with a driver's license hearing officer. The request shall be submitted to the office of driver services at the address in 761—600.2(17A).

b. If the driver's license hearing officer approves the issuance of a temporary restricted license, the officer shall furnish to the applicant application Form 430100, which is to be completed and submitted to the office of driver services.

c. A temporary restricted license issued for employment may include permission for the licensee to transport dependent children to and from a location for child care when that activity is essential to continuation of the licensee's employment.

615.45(3) *Statements.* A person applying for a temporary restricted license shall submit all of the following statements that apply to the person's situation. Each statement shall explain the need for the license and shall list specific places and times for the activity which can be verified by the department.

- a.* A statement from the applicant.
- b.* A statement from the applicant's employer unless the applicant is self-employed including, when applicable, verification that the applicant's use of a child care facility is essential to the applicant's continued employment.
- c.* A statement from the health care provider if the applicant or the applicant's dependent requires continuing health care.

- d. A statement from the educational institution in which the applicant is enrolled.
- e. A statement from the substance abuse treatment program in which the applicant is participating.
- f. A copy of the court order for community service and a statement describing the assigned community service from the responsible supervisor.

- g. A statement from the child care provider.

615.45(4) Additional requirements. An applicant for a temporary restricted license shall also:

- a. Provide a description of all motor vehicles to be operated under the temporary restricted license.
- b. File proof of financial responsibility under Iowa Code chapter 321A, if required, for all motor vehicles to be operated under the temporary restricted license.
- c. Pay the required civil penalty specified in Iowa Code Supplement section 321.218A or 321A.32A.

615.45(5) Issuance and restrictions.

- a. When the application is approved and all requirements are met, the applicant shall be notified by the department to appear before a driver's license examiner. The applicant shall pass the appropriate examination for the type of vehicle to be operated under the temporary restricted license. An Iowa resident shall also pay the reinstatement and license fees.

- b. The department shall determine the restrictions to be imposed by the temporary restricted license. The licensee shall apply to the department in writing with a justification for any requested change in license restrictions.

615.45(6) Denial. An applicant who has been denied a temporary restricted license or who contests the license restrictions imposed by the department may contest the decision in accordance with rule 761—615.38(321).

These rules are intended to implement Iowa Code chapter 321A and sections 252J.8, 321.177, 321.178, 321.184, 321.185, 321.186, 321.189, 321.191, 321.193, 321.194, 321.201, 321.205, 321.209, 321.210, 321.210A, 321.212, 321.213A, 321.213B, 321.215, 321.218, 321.513, and 321.560 and Iowa Code Supplement sections 321.218A and 321A.32A.

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